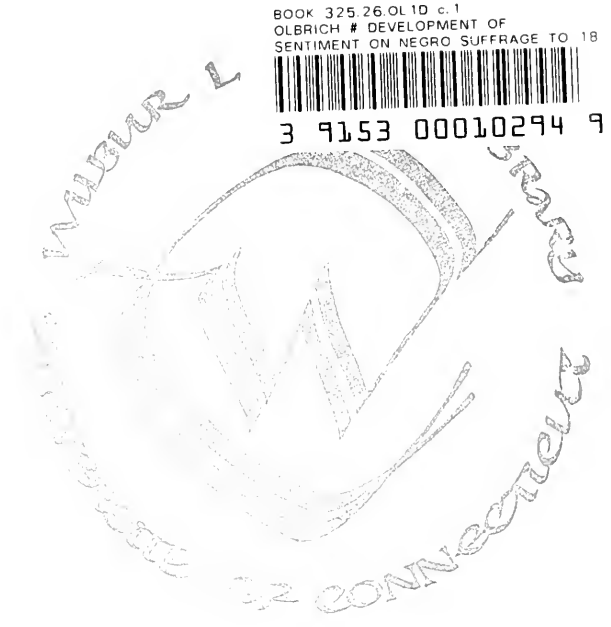

BULLETIN OF THE UNIVERSITY OF WISCONSIN

NO. 477

HISTORY SERIES, VOL. 3, NO. 1, PP. 1—135

THE DEVELOPMENT OF SENTIMENT ON NEGRO SUFFRAGE TO 1860

BY

EMIL OLBRICH

A THESIS SUBMITTED FOR THE DEGREE OF MASTER OF ARTS
THE UNIVERSITY OF WISCONSIN

THE UNIVERSITY OF WISCONSI
1912
PRICE .. CENTS.

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PREFATORY NOTE

This study was made during the academic year, 1905 to 1906, in partial fulfillment of the requirements for the degree of Master of Arts at The University of Wisconsin. Mr. Olbrich also treated, in the form of exceptionally complete and finished seminary reports, the whole subject of negro suffrage through the passage of the fifteenth amendment, and had planned to present these results, together with a study of its later phases, in the form of a doctoral dissertation. In the summer of 1906, Mr. Olbrich was drowned while bathing in Lake Mendota. This fragment of his work is obviously not precisely in the form in which Mr. Olbrich would have presented it to the public. In particular, more use would have been made of biographical and newspaper material.

The handling of the material actually used, however, was so thorough and sane as to make the work of editing it a real pleasure, and this reliability, combined with the substantial originality of the facts and conclusions, were felt to warrant publication.

The manner of treatment, moreover, exhibits a distinct individuality and force, in which are traceable the qualities which gave Mr. Olbrich a marked reputation as a debater, and which is particularly well suited to the subject matter. It is possible, however, that these considerations might not of themselves have induced the editor to take up the problem of publication, had it not been for his feeling of friendship for Mr. Olbrich, and his sense of the loss which the historical profession suffered by his death.

CARL RUSSELL FISH.

THE DEVELOPMENT OF SENTIMENT ON NEGRO SUFFRAGE TO 1860

CHAPTER I

COLONIAL PRACTICE AND REVOLUTIONARY PRINCIPLES, TO 1790

The imposition of negro suffrage on the Southern States by the Reconstruction measures of 1867 is regarded by eminent historians as a hasty act.[1] Without discussing here whether this view is justified, it may be asserted that to explain fully why the North forced the South to let the black man vote, one must trace the development of ideas on the African's right to choose his rulers through more than a hundred years of previous history.

Prerevolutionary Restrictions

Apparently the earliest record of negro voting comes from South Carolina. In 1701 and 1703 the elections for governor were characterized by irregularities; it was complained in both those years that many illegal votes were received from "several unqualified classes such as aliens, strangers, servants and free negroes."[2] On December 15, 1716, an act was passed which provided that "every white man and no other," possessing the requisite qualifications "should be capable to elect

[1] Rhodes. "If ever in our history there was a case of hasty man, it was in the Reconstruction legislation of Congress. The serious discussion began Jan. 3, 1867, and the act was passed over the President's veto March 2." *Mass. Hist. Soc. Proceedings*, 2nd Series, Vol. XVII, p. 466, Dec. 1904.

[2] A. E. McKinley, *The Suffrage Franchise in the Thirteen English Colonies in America*, pp. 137, 138.

or be elected members of the Commons House of Assembly."[3] Virginia, in 1705, forbade any negro, mulatto or Indian to "bear any office," "or be in any place of public trust or power," under penalty of £500, and £20 a month as long as he should continue to hold the position.[4] That this drastic provision was directed at any real danger seems wholly improbable; for it was not until 1723 that the same classes were forbidden to vote, by a law which was perhaps the result of an attempted negro insurrection.[5] When this latter law was referred to Richard West, Attorney of the Board of Trade, he wrote: "I cannot see why one freeman should be used worse than another, merely on account of his complexion—. It cannot be right to strip all persons of a black complexion from those rights which are so justly valuable to any freeman."[6] After being in force for ten years or more, this act seems to have been repealed by proclamation, for it is found in the revisal of 1733, but not in that of 1766; and another act disfranchising negroes, mulattoes and Indians, was passed in 1762.[7] North Carolina, in 1715, by "the earliest extant election law," provided that "No Negro, Mulatto or Indians shall be capable for voting for Members of Assembly."[8] This exclusion was omitted from a law of 1734-5 which restricted the suffrage to freeholders, and the preamble of which recites that "it hath been found inconvenient for the freemen" to vote, and that the royal instruction had directed that only freeholders should vote for members of assembly. Whether the omission of the color discrimination was consciously designed to admit negroes, one cannot tell; but it was not re-adopted by North Carolina until 1835.[9] Georgia, in 1761, passed an election law, of which the preamble stated that the manner and form of choosing members of the assembly

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[3] *Ibid.*, p. 146.

[4] *Ibid.*, p. 46. Hening, *Statutes at Large*, III. p. 251.

[5] Hening, IV. pp. 133–134; McKinley, p. 36; Chandler, J. A. C., *The History of Suffrage in Virginia, Johns Hopkins Historical Studies*, XIX. Nos. 6 & 7, p. 12.

[6] McKinley, p. 37 refers to Neill, *Virginia Carolorum*, 330 note I; Weeks, S. B., *The History of Negro Suffrage in the South, Pol. Sci. Quar.* IX, p. 673, refers to Summer's *Works* X. p. 193.

[7] Weeks, *Ibid.*

[8] McKinley, p. 91–2.

[9] *Ibid.*, pp. 100, 101.

had never yet been determined, and which provided that "every free white man and no other," who had the proper qualifications, should be entitled to vote.[10]

No express exclusion of Africans from the suffrage existed in the laws of any other colony before the Revolution. It is not improbable that here and there people willingly acquiesced in the casting of an occasional ballot by a black man or mulatto. Yet the presence of slavery in every colony, and the general and deep-seated prejudice against negroes which then existed, make it seem impossible that courts and law making authorities consciously assumed or permitted negro suffrage.[11]; probably few of the small number of free negroes acquired the requisite qualifications to vote even if admitted on a par with the whites, and certainly the omission of race discriminations was not the result of popular agitation in favor of colored inhabitants.

First State Constitutions

No such generalization can be made concerning the omission of color distinctions from the suffrage clauses of the first state constitutions. The Virginia Constitution of 1776 provided: "The right of suffrage in the election of members for both Houses shall remain as exercised at present." The law of 1762, therefore, remained in force until the Constitutional convention of 1830 adopted the words: "Every white male citizen."[12] In South Carolina, the election laws of 1721, 1745, and 1759 had continued the restriction of the right to vote to white men,[13] and the constitution of 1776 provided: "The qualifications of electors shall be the same as required by law."[14] The constitution of Georgia, adopted in 1777, confined the suffrage

[10] *Ibid.*, p. 172; Weeks, p. 674; also Bishop, *History of Elections in Am. Colonies*, 279–287.

[11] Prof. Hart says: "In the colonies freed Negroes, like freed indentured white servants, acquired property, founded families and came into political community, if they had the energy, thrift and fortune to get together the necessary property." Reference lost. He gives no evidence, however; and even after the Revolution, as will be seen later, the negro's right to vote equally with white men was far from established.

[12] Poore, *Charters and Constitutions*, II, pp. 1910 and 1917.

[13] McKinley, pp. 153, 154–55, 157; Weeks, p. 673.

[14] Poore, II, p. 1618.

to "male white inhabitants."[15] The Delaware legislature, in 1787, passed "an act to prevent the exportation of slaves and for other purposes," of which the eighth section provided that manumitted slaves should not vote, hold office, or give evidence against whites,[16] and the constitution of 1792 employed the language, "Every white free man," to describe the voter. No other state constitution excluded negroes from the electorate during this period. As constitutions were framed by all the remaining states except Connecticut and Rhode Island, it would seem that, with the example of certain constitutions that forbade negro voting before them, they did not leave out the color discrimination through inadvertence or oversight. It is inferable from the Delaware law of 1787 which excluded manumitted slaves, that, if a negro were born free and were otherwise qualified, the legislators intended to let him vote. A similar inference is to be drawn from a Maryland law of June, 1783, entitled "an act to prohibit the bringing slaves into the State,"[17] which provided that slaves might be manumitted under certain conditions, and "that no colored person freed thereafter, nor the issue of such should be allowed to vote, or to hold office, or to give evidence against any white, or to enjoy any other right of a freeman than the possession of property and redress at law or equity for injury to person or property."[18]

An interesting and curious evidence of the African's appre-

[15] *Ibid.*, I. p. 379.

[16] Hurd, J. C., *The Law of Freedom and Bondage in the United States*, Vol. II. p. 74.

[17] *Laws of Maryland*, 1682–1799, vol. II. 1785–1799, Ch. 67 Sec. 5, passed Dec. 31, 1796. The book is not paged, but the laws are arranged in chronological order. See also in volume I., ch. 23, passed June 1, 1783, where the title of the act only, is given.

[18] Brackett, J. R., *The Negro in Maryland*, p. 186; also Weeks, p. 677. Neither gives authority for the statement. Weeks probably quoted from Brackett, as he does on other points. The law of Dec. 31, 1796, referred to in the preceding note, provides that no manumitted slave, "shall be entitled to the privilege of voting at elections, or of being elected or appointed to any office of profit or trust, or to give evidence against any white person, or shall be recorded as competent evidence to manumit any slave petitioning for freedom." No mention is made of the *issue* of manumitted slaves, and the provisions differ in other respects from those quoted by Brackett. If Brackett had merely given the wrong date for the law of 1796, he would not have departed so widely from its provisions. I, therefore, infer that he had access to another, and as the detailed nature of his citation would indicate, authoritative source.

ciation of the elective franchise, even in slavery, which must have made some of the whites consider the question of negro suffrage, is found in a peculiar slave custom in colonial Rhode Island and Connecticut. In both colonies the imitative negroes followed the example of the whites on election day and elected a governor. In Rhode Island, where slaves were still numerous, each town held its own election to which the slaves looked forward with great anxiety and which is said to have been marked by as violent and acrimonious party spirit as among the whites. It was a day of festivity for the blacks; the owners, in accordance with their wealth, were expected to furnish their slaves with money and fine apparel and the negroes assumed power and pride and rank according to their master's station in life. As the number of slaves diminished, these mock elections became less general and, toward the end of the 18th century, finally disappeared.[19] In Connecticut, the earliest evidence of the custom is the record that, in 1766, after having held the office ten years, Governor Cuff resigned in favor of John Anderson. There negro elections continued into the nineteenth century after the negroes were freed, and their last governor held office down to within a few years of the civil war. The notices of these elections in early days were addressed to "negro men," but later to "colored gentlemen." On the day of the inauguration of governor of the state, they followed the whites to the capital, enjoyed the military parades and the procession to hear the election sermon, elected a governor, chosen for physical prowess, and a lieutenant-governor, inaugurated them with great ceremony and with shouting, laughing and singing, listened to an address from their governor, ate a dinner, and then danced until noon of the next day.[20]

Massachusetts, 1780

The best proof that the omission of a color discrimination with regard to the right to vote was not accidental is found in

[19] Johnson, W. D., *Slavery in Rhode Island, Rhode Island Hist. Soc. Pub.*, new series, vol. 2, 1894, p. 139–140. He quotes Updike, "*History of the Narragansett Church*" p. 77.

[20] *Connecticut as a Colony and as a State*, Forest Morgan, Ed.-in-Chief, volume II, p. 259.

the case of Massachusetts. James Otis in his speech on the Writs of Assistance in 1761, had made John Adams shudder at the consequences of his strong assertion of negro rights.[21] Anti-slavery sentiment, however, was growing, and its progress was accelerated by the doctrines of Revolutionary times, but the champions of the negro were not strong enough to secure for him the elective franchise. The question of negro suffrage came out in the legislature-convention of 1777-1778, and, after a long debate, the opponents of negro equality were victorious, and retained in the suffrage clause the words: "Excepting Negroes, Indians and Mulattoes."[22] Great interest attaches to the discussion as the first recorded argument by Americans on the subject of negro suffrage. The friends and opponents of negro equality ridiculed each other's ideas in doggerel verse.[23] Dr. Gordon asks if it is not ridiculous, inconsistent, and unjust to exclude freemen from voting because of their color.[24] "Why not disqualified for being long-nosed, short-faced, or higher or lower than five feet nine? A black, tawny, or reddish skin is not so unfavorable an hue to the genuine son of liberty, as a tory complection."[25] He added that "the disqualification of mulattoes conflicted with the proposal in the Confederation, that the free inhabitants of each state shall, upon removing into any other State, enjoy all the privileges and immunities belonging to the free citizens of such State." Mr. John Bacon, a member of the convention, published the substance of his speech for negro rights, in which he answered the arguments of those who opposed negro equality.[26] The suffrage discrimination, he declared, sapped "the foundation of that liberty which we are now defending," it violated the fundamental principle of no taxation without representation; and "the persons excepted in the clause now before the Convention, would be justified in making the same opposition against us which we are

[21] Moore, G. H., *Notes on the History of Slavery in Massachusetts*, p. 119.

[22] *Ibid.*, pp. 187–191.

[23] In the *Independent Chronicle and Universal Advertiser* of January 29, February 12th and 19th 1778, referred to by Moore, p. 186.

[24] Jan. 8, 1778. Moore, p. 186.

[25] If the word "rebel" were put in place of "tory," the last sentence could be paralleled by many score from the discussions of the Reconstruction period.

[26] Sept. 23, 1779, Moore, pp. 187–191.

making against Great Britain." To the reasoning that the protection which the laws gave negroes was equivalent to the taxes they paid, he answered that Great Britain supported her claim to tax America on precisely the same ground, and that negroes had been given no voice in deciding whether the value of the privileges secured to them by the laws was equivalent to the taxes which were collected from them. "We set a price upon our own commodity, and oblige them to give it whether they will or not." On the other side, it had been said that Great Britain had desired to tax America without taxing herself, while Massachusetts was taxing negroes and white people equally; but what warrant, he asked, did the negroes have, when taxed "as persons who do not belong to our community," that they would not be made to bear exorbitant taxation. He denied that negroes were foreigners; most of them, he declared, were born in this country; the present constitution guaranteed them equal rights and privileges which could not be wrested from them except by mere power.

Perhaps the most significant argument that he mentioned as having been advanced by his opponents was: "That by erasing this clause out of the constitution, we shall greatly offend and alarm the Southern States." This he denied: "Will they be offended or alarmed that we do not violate those essential rights of human nature which they have taken the most effectual pains to establish and secure." The same argument is referred to by Dr. Gordon in a letter of April 2nd, 1778,[27] in which he said: "It hath been argued, that were negroes admitted to vote, the Southern States would be offended....This would be to suppose the Southern States as weak as the argument." In this letter he replied to another almost equally important watchword of the opponents of negro rights, that negro suffrage would induce negro immigration: "Will not the Negroes be as likely to crowd into the State, if they may be free, though they are debarred the right of voting?" If any are afraid that the Bay inhabitants will,...at some distant period, become Negroes, Indians or Mulattoes, let the General Court guard against it by future Acts of the State." This ar-

[27] Published in *The Continental Journal*, April 9th, 1778, Moore, p. 192.

gument was made and answered again and again in the Northern States whenever negro suffrage was discussed during the next century. He said the word "mulatto" should have been defined; there was danger that whites with the slightest taint of negro or Indian blood would be excluded. "The complexion of the 5th Article," declared Dr. Gordon, "is blacker than any African; and if not altered, will be an everlasting reproach upon the present inhabitants; and evidence to the world that they mean their own rights only, and not those of mankind in their cry for liberty."[28]

When the Constitution was submitted to the people, there was great difference of opinion among them. Boston and Cambridge voted it down unanimously, but not appearantly because of the suffrage clause. Dartmouth favored the equal recognition of the negroes, but at the same time recorded that there was "no Negro, Indian or Mulatto" among her voters.[29] The constitution was rejected, but the exclusion of negroes from the right to vote had little to do with this result and the attitude of the convention which inserted the discrimination probably represented the attitude of the people at large. It is true that perhaps from a sense of shame no color distinction was put into the constitution of 1780. Yet the friends of the negro failed even to secure a constitutional provision abolishing slavery,[30] and it was only through a series of court decisions during the following decade, in which the courts gave the broadest interpretation to the clause of the Bill of Rights which asserted: "All men are born free and equal," that the Massachusetts negroes were all set free.[31] It is probable that in most localities popular sentiment kept negroes from voting, even when they had the requisite property qualification.[32] In the town of Dartmouth, which, in 1778, when it had no colored voters, declared in favor of equal recognition of negroes with respect to the elective franchise, the colored inhabitants resisted the payment

[28] Moore, pp. 193, 194.

[29] Moore, pp. 195, 196.

[30] Locke, M. S., *Anti-Slavery in America*, (1619–1808), *Radcliffe College Monographs*, No. 11, p. 80.

[31] *Ibid.*, p. 80; Moore, pp. 200 *et seq.*

[32] Moore., p. 196.

of taxes and, in April 1781, they applied to the selectmen to lay before the voters of the town the question "whether all free negroes and mulattoes shall have the same privileges in this said town of Dartmouth as the white people have, respecting places of profit, choosing of officers, and the like, together with all other privileges in all cases that shall or may happen to be brought in this our said town of Dartmouth."[33] It is probable that, as in other states, negroes gradually and through custom acquired the privilege of voting here and there in Massachusetts but not in all places. By 1795, some of them actually did vote, and one mulatto had served as town clerk in a country town. But opinion was divided as to whether men of color were legally entitled to the privileges of an elector.[34] Evidence of the prejudice that must have kept some blacks from voting is found in a law of 1788, which warned all Africans or negroes, unless they were subjects of the Emperor of Morocco or could show that they were citizens of one of the United States by a certificate from the Secretary of the state of which they were citizens, to depart from the Commonwealth within two months. If they refused, they were to be subjected to imprisonment and whipping and the punishment was to be indefinitely repeated until they learned obedience.[35] The only recorded enforcement of this law occurred in 1800. The police collected a long list of the names of persons coming within the scope of the law and published the names in the Massachusetts Mercury for September 16, and warned the negroes mentioned to leave the state by October 10. One-fourth of the prescribed negroes were members of an African Benevolent Society whose avowed purpose was to behave themselves "as true and faithful *citizens* of the Commonwealth." Obviously the police exceeded the authority given them by the law; but it is possible that this drastic action was stimulated by a temporary fear of a negro uprising.[36]

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[33] Moore, p. 198, quotes Nell's *Colored Patriots of the Revolution*, 87–90. Moore says he finds no evidence of Nell's statement that these proceedings established the negro's right to vote.

[34] Moore, 199, refers to *Mass. Hist. Soc. Coll.* Vol. I, ser. IV, p. 208.

[35] Moore, p. 228.

[36] Moore, pp. 231–236.

New York, 1785

In New York as in Massachusetts, most of the people opposed negro suffrage and a minority favored it. On the 21st of March, 1785, the New York Council of Revision vetoed a bill entitled: "An act for the gradual abolition of slavery within this State." The members of the council present were Governor Clinton, Justice Hobart and Chancellor Livingston. The latter wrote out their objections. 1. Because the last clause of the bill enacts that no negro, mulatto or mustee shall have a legal vote in any case whatsoever....."The bill having in other instances placed *the children that shall be born of slaves in the rank of citizens,* agreeable both to the spirit and the letter of the Constitution, they are as such entitled to all the privileges of citizens, nor can they be deprived of these essential rights without shocking those principles of equal liberty which every page in that Constitution labors to enforce. 2. Because it holds up a doctrine which is repugnant to the principles on which the United States justify their separation from Great Britain, and either enacts what is wrong or supposes that those may rightfully be charged with the burdens of government who have no representative share in imposing them. 3. Because this class of disfranchised and discontented citizens, who at some future period may be both numerous and wealthy, may under the direction of ambitious and factious leaders, become dangerous to the State and effect the ruin of a Constitution whose benefit they are not permitted to enjoy." 4. Because it "lays the foundation of an aristocracy of the most dangerous and malignant kind;" the term "mustee" is indefinite; let but a few colored people intermarry with the whites, and in two hundred years hardly a fiftieth of the people will be without some share of negro blood and all the rest will be excluded from the elective franchise. 5. "Because the last clause of the bill being general, deprives those black, mulatto, and mustee *citizens who have therefore been entitled to vote, of this* essential privilege; and under the idea of political expediency, without their having been charged with any offence, disfranchises them in direct violation of the established rules of justice, against the letter and spirit of the Constitution, and tends to support a

doctrine, which is inconsistent with the most obvious principles of government, that the Legislature may arbitrarily dispose of the dearest rights of their constituents."

In spite of this vigorous protest, the Senate passed the bill over the veto, but the required two-thirds majority could not be secured in the House. The minority in favor of negro suffrage was, therefore, by no means inconsiderable. It is a notable fact that, suffrage excepted, the bill "placed the children that shall be born of slaves in the rank of citizens;" and the fifth objection indicates that probably a few free negroes or mulattoes were in the habit of voting without molestation. One must conclude that, at this early date, the sentiment in favor of the negro was fully as strong in New York as in Massachusetts.[37]

Pennsylvania, 1790

In the Pennsylvania constitutional convention of 1789-1790, a debate arose on using the word "white" to describe the electors. The use of this word was strongly opposed by Albert Gallatin and it was left out.[38] Whether Gallatin made his motion

[37] Street, A. B.: *The Council of Revision of the State of New York, its History; a History of the Courts with which its members were connected; Biographical Sketches of its Members; and its Vetoes*, pp. 268-269. Referred to by Jeffrey R. Brackett in *"The Status of the Slave;"* in J. F. Jameson, *Essays in the Constitutional History of the United States*, p. 298. This in turn is referred to by M. S. Locke: *Anti Slavery in the U. S.*, p. 123. Mr. Olbrich's conclusion that the sustaining of the veto was due entirely to the desire for negro suffrage, does not necessarily follow.

[38] I believe the evidence fully warrants these statements. In the convention of 1837-38; one of the members, Mr. M'Cahen, said he had been informed that a committee of the Convention of 1789-90 had presented a suffrage article containing the word "white"; that Albert Gallatin thought "white" was too indefinite because it might exclude men, who, like himself, were of dark complexion, and that on his suggestion it was stricken out. *Pa. Convention debates*, 1838, III., 87. The same account is given by Chief-Justice Gibson in his opinion in the case of *Hobbs vs. Fogg*, brought in 1837 and decided in 1838, *Watts' Reports*, VI., 559. Another member of the convention of 1837-38, Mr. Cope, said that he had attended some of the meetings of the convention of 1789-90: "On one of those occasions I found the floor occupied by a member, whose appearance and peculiar French accent were well calculated to rivet my attention—his visage was sharp, his eye keen, his manner animated, his complexion sallow. As he spoke, his body inclined forward—his right arm was extended, and his forefinger bent as if to grapple with his subject. He was declaiming against the introduction of the word 'white' as a qualification for a voter—and said among other things, that if the word were so introduced, he did not know but he himself might be excluded from voting. The whole circumstance made a deep impression on my mind. I inquired the name of the member and

and his speech in behalf of Caucasians of dark complexion or on behalf of Africans, the omission of the color distinction did not give negroes an undoubted and established right to vote. It was the recollection of a member of the Convention of 1837-38, Mr. Hopkinson, that soon after the adoption of the constitution of 1790, the question of the negro's right to the elective

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received for answer, that he was Albert Gallatin, delegate from the county west of the Alleghany Mountains." *Pa Con. Debates*, 1838, IX., 97–98. Another member, Mr. Darlington, produced a letter in which Gallatin confirmed the prevailing impression. The letter, which is not printed in Henry Adam's edition of the *Works of Gallatin*, nor listed by him among the unpublished letters of Gallatin, is as follows;

New York, December 21, 1837.

Sir:—Yours of the 19th instant, has been received. You apply to me for information respecting the share I took forty-seven years ago in framing that article of the constitution of Pennsylvania, which regulates the right of suffrage.

"I have already been addressed on that subject in a general way, but not particularly in reference to the point to which you allude. I cannot, in my seventy-seventh year, sufficiently rely on an impaired memory, to assert positively what took place in the course of a discussion embracing a great variety of amendments approved, rejected, repeatedly modified or withdrawn. Yet I have a lively recollection that, in some stage of the discussion, the proposition pending before the convention, limited the right of suffrage to 'free white citizens' &c and that the word 'white' was stricken out on my motion.

Permit me, however, to observe that the minutes of the convention, both proper and in the committee of the whole, were published at the time, and are incontrovertible evidence of all the facts on which evidence may be wanted. It seems almost impossible that some copies should not have been preserved among the legislative records, or in some public or private library.

I am respectfully,
Your obedient servant
ALBERT GALLATIN.

Mr. Joseph Parish, Philadelphia.

Pa. Convention debates, 1837-38, X. 45.

The journals of the convention of 1789-90 contain no reference whatever to any such proceedings as Mr. Gallatin mentions in his letter; but Mr. Darlington pointed out that for about a week in December, 1790, the minutes of the committee of the whole merely record for each day that the committee reported further progress and asked leave to sit again. *Ibid.*, 44. A few moments examination of the journal will convince anyone that Mr. Darlington was right and Mr. Gallatin mistaken in accepting the journal as conclusive evidence. See "*Conventions and Constitutions of Pennsylvania*, Harrisburg, 1825." 163-166. Henry Adams found among Gallatin's papers relating to the convention of 1789-90; "A memorandum of his motion in regard to the right of suffrage, by virtue of which every freeman who has attained the age of twenty-one years and been a resident and inhabitant during one year next before the days of election; every naturalized freeholder, every naturalized citizen who has been assessed for state or county taxes for two years before election day, or who had resided ten years successively in the state, should be entitled to the suffrage, paupers and vagabonds only being excluded." Adams, H. *The Life of Albert Gallatin*, p. 81.

franchise was raised at a heated election in Philadelphia, that the judges of the election took the opinion of three lawyers, two of whom had been members of the convention of 1789-90, and that all three concurred in affirming that negroes were entitled to vote.[39] In deciding a case which was brought in 1837, Chief Justice Gibson cited as an authoritative precedent an unreported decision of about the year 1795, in which, according to the remembrance of James Gibson, Esquire, of the Philadelphia bar who had declined an invitation to be concerned in the argument, the High Court of Errors and Appeals had decided that negroes did not have the right of suffrage.[40] The question seems to have been little thought of for more than forty years and was still undecided in 1838.

The Articles of Confederation

The central government also was obliged to deal with the negro question. When the Continental Congress was discussing the Articles of Confederation, New Jersey objected to the proposed ninth article, which provided that the requisitions for the land forces should be apportioned among the several states according to the number of their *white* inhabitants. The grounds of objection were stated in "The Representation of the Legislative Council of the State of New Jersey,"[41] which Congress took into consideration on June 5, 1778. Since "all men are created equal," it follows that "all the inhabitants of every society, be the color of their complexion what it may, are bound to promote the interests thereof according to their respective abilities." In the slave states, the performance of nearly all manual labor by the negroes leaves more whites at liberty to do military service than in the free states. Therefore requisitions of land forces should be in proportion to all the inhabitants. The motion to strike out *white* was, however, lost.[42] A more interesting controversy arose on the same day over the fourth article which provided that "the free inhabitants of each of these States.....shall be entitled to all privileges

[39] *Pa. Con. debates*, 1837–38, X., p. 97.
[40] *Hobbs v. Fogg*, p. 6, *Watts*, p. 553.
[41] *Secret Journals of Congress, Domestic Affairs*, I., pp. 374, 378.
[42] *Ibid.*, p. 381.

and immunities of free citizens in the several states." South Carolina moved to insert "white" between the words "free inhabitants," and also to insert after "several states" the words "according to the law of such states respectively for the government of their own free white inhabitants." Both these amendments were defeated; eight states voted against them, one state was divided and two states voted for them.[43] Congress therefore was not willing to refuse negroes the "privileges and immunities of free citizens." That the right to vote was included among them was, as we have seen, the opinion of Dr. Gordon of Massachusetts; but the question was not then a settled one. The Confederation Congress, however, had to pass on the qualifications of electors in organizing the Northwest Territory; and in the Ordinance of 1787, no color discrimination was inserted.[44]

Influence of Declaration of Independence

It is evident that the Revolutionary notions that all men are created equal, that taxation without representation is tyranny, and that all governments derive their just powers from the consent of the governed, had a considerable effect on the legislation that dealt with the negro in this period. Black men from every state served in the American armies;[45] this fact no doubt had some influence in legislative councils. It is practically certain that the vast majority of white people in every colony would have been unwilling to let negroes vote in considerable numbers, but, as long as the question of negro suffrage was largely theoretical, as long as the absence of restrictions was likely to occasion no real inconvenience, many law makers and constitution makers were averse to marring their work by provisions inconsistent with the watchwords of the Revolution, and therefore permitted themselves to be influenced by sentiments similar to those which made the framers of the Federal Constitution unwilling that its text should be sullied by the name of slavery.

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[43] *Ibid.*, p. 382.

[44] Poore, I., p. 430.

[45] Livermore, G., *An Historical Research*, etc., *Mass. Hist. Soc. Proc.*, vol. IV., pp. 86–248, Aug. 1862; Nell, W. C., (Colored), *The Colored Patriots of the American Revolution.*

CHAPTER II

A PERIOD OF REACTION, 1790 TO 1838

The first three States admitted to the Union under the Constitution came in with no color distinction in their suffrage provisions, Vermont in 1790, Kentucky in 1792, and Tennessee in 1796. Kentucky's constitution of 1792, declared that all men, when they form a social compact, are equal; but the new constitution of 1799 recognized equality in the foundation of a social compact only in the case of "*free* men," and confined the right to vote to free white male citizens.[1] Two years later Maryland, which had passed in 1783 and re-enacted in 1796, a law forbidding emancipated slaves to exercise the elective franchise,[2] adopted, by a bill which passed both houses of the legislature in November 1801, a constitutional amendment which provided that only free white male citizens should be electors.[3] This alteration was confirmed in November 1802, and the word "white" was retained in another suffrage amendment adopted in 1809 and confirmed in 1810.[4] Perhaps the amendment of 1801-1802 was not strictly enforced; for as late as 1810, evidence was given in Baltimore county court that a certain free black had been in the habit of voting at elections; and it is recorded that Greenbury Morton, a cousin of the famous negro clock-maker, Benjamin Banneker, did not know of the law of 1809 until he attempted to vote at the polls in Baltimore County, and that when his vote was refused, "he addressed the crowd in a strain of true and passionate eloquence,

[1] Poore I., pp. 652, 654, 658, 670.

[2] See ante p. 10.

[3] Scharf, J. T., *History of Maryland*., Vol. II., p. 611.

[4] Maxey's *Laws of Maryland, Revision of* 1811, Vol. III., pp. 53, 54. See also *Revision* ordered in 1817, Vol. III., pp. XXVII, XXVIII; and Vol. IV, Ch. 83, laws of 1809, and Ch. 33 of laws of 1810.

which kept the audience, that the election had assembled for him, in breathless attention while he spoke."[5]

Ohio, 1802

In 1802, the same year that the Maryland amendment was confirmed, a constitution was adopted in Ohio. It cannot be definitely determined whether free negroes had ever voted there under the suffrage provision of the Ordinance of 1787. One writer says that under the territorial government they voted for delegates to the convention which framed the constitution.[6] Yet in his dissenting opinion in the case of *Thacker v. Hawk* in 1842, Justice Read, of the Supreme Court of Ohio, declared that it was a fact familiar to old inhabitants of the territory that "no negro, or person of any degree of black blood, was ever permitted to vote" during the territorial period.[7] During the session of the convention, various negro questions were warmly and even bitterly discussed.[8] Accounts vary, but it is certain that the disfranchisement of negroes was carried only by a very narrow majority. It is said that at first an article was adopted without a color distinction, but that on reconsideration, the discrimination was adopted by the casting vote of the president of the convention, Mr. Tiffin, a Virginian, who afterward became the first governor of the state.[9]

New Jersey, 1807

During all these years, New Jersey had been having a unique experience. Her constitution of 1776 provided "that all inhabitants of this colony" who had the requisite property,

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[5] Brackett, J. R., *The Negro in Maryland*, p. 186; *Memoirs of Benjamin Banneker*, read May 1, 1845, by John H. Latrobe, Esq., p. 6, Maryland Hist. Soc. Pub., 1845.

[6] Smith, W. H., *A Political History of Slavery*, I., p. 13.

[7] 11 *Ohio*, p. 376.

[8] *Transactions of the Historical and Philosophical Society of Ohio*, Part Second, Vol. I., p. 111. Letter of Judge Burnet.

[9] *Ibid.*, p. 109; Smith, W. H., *Op. cit;* King, R., *Ohio*, in *American Commonwealths; Ohio Con. Reports.*, 1850-51, II., p. 1180; *Cong. Globe*, 3 S. 40 C., *App*, 97.

age, and residence qualifications should be entitled to vote.[10] This clause was interpreted literally. An act of 1790 regulating elections, used the words "he or she" in referring to voters,[11] and a similar law of 1797 provided that "every voter shall openly and in full view deliver his or her ballot (which shall be a single written ticket, containing the names of the person or persons for whom he or she votes) to the said judges."[12] It was recognized by the Supreme Court that negroes were entited to vote. In 1794, the court held a certain election illegal because "the bare word of one man that he was qualified,—the affirmation of a black man that he had been manumitted was held sufficient to entitle these persons to vote." The implication is that the suffrage would not be with-held from a negro who could give clear evidence that he had been emancipated. In 1797, there were seventy-five votes cast by women in a single town. Women voted generally throughout the state in the presidential election of 1800, and in 1802 a candidate for the Legislature from Hunterdon county carried a closely contested election by the votes of several female negroes. At a local election in Essex county, in 1870, for the location of a county seat, women as well as men were implicated in extensive frauds.[13] At last, the Legislature decided to interpret the constitution more strictly. February 22, 1807, a law was passed with the following preamble: "Whereas doubts have been raised, and great diversities in practice obtained throughout the state in regard to the admission of *aliens*, *females* and *persons of color*, or *negroes* to vote in elections, as also in regard to the mode of ascertaining the qualifications of voters in respect to estate.—And whereas, it is highly necessary to the safety, quiet, good order and dignity of the state, to clear up the said doubts by an act of the representatives of the people, declara-

[10] Poore, II., p. 1311.

[11] A paragraph from the New York *Tribune*, quoted in McPherson's *History of Reconstruction*, p. 258, and re-quoted in Foster's *Commentaries on the Constitution*, Vol. I., 320.

[12] *Statutes of New Jersey*, pp. 1821, 275; or Patterson's *Laws of New Jersey*, Newark MDCCC, pp. 320; Cooley, H. S., *A Study of Slavery in New Jersey, Johns Hopkin's Historical Studies*, Vol. XIV., p. 464; *Law Reports*, I, Coxe, p. 244. Mr. Cooley's page reference and the date he assigns do not correspond with the edition of Coxe's *Reports*, which I consulted.

[13] McPherson, E., *History of Reconstruction.*, p. 258.

tory of the true sense and meaning of the constitution, and to ensure its just execution in these particulars, according to the intent of the framers thereof." In view of these considerations it was enacted that no one should vote, "unless such person be *a free, white, male citizen.*"[14] The color discrimination was repeated in a law of June 1, 1820,[15] and in 1844 it was made a part of the constitution.[16]

Connecticut, 1818, Maine, 1819, Massachusetts, 1820

The only New England State that forbade negro suffrage was Connecticut. In the Convention of 1818, the Committee to whom the subject of drafting a Constitution was referred, reported a suffrage article which was adopted apparently without serious discussion. This article permitted only white male citizens to come into the electorate after the ratification of the Constitution, but provided that all who had previously been admitted "freemen, according to the existing laws of this state," should be electors.[17] The latter clause was understood by contemporaries to include negroes who had been exercising the right to vote.[18] Connecticut's negro population was 8,041 with 267,161 white persons,[19] and it is possible that negro voters were becoming inconveniently numerous; in Massachusetts, where there were only 6,868 colored people with 516,419 white people, it may have been easier to be liberal. In the Massachusetts convention which sat from November 15, 1820, to January 9, 1821, no reference was made to negro suffrage, although the subject of qualifications for voting was discussed at length.[20]

Maine had already, more than a year before, shown evidence of the New England feeling on the negro question. The constitutional convention was in session from the 11th to the 29th of

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[14] *Laws of the State of New Jersey*, compiled and published under the authority of the Legislature, by Jos. Bloomfield, Trenton, 1811, p. 33.

[15] *Statutes of New Jersey*, published in 1821, p. 741.

[16] Poore, II., p. 1315.

[17] *Journal of the Convention of 1818*, printed in 1873 by order of the General Assembly, pp. 46, 90; Poore, I., p. 263.

[18] Mr. Jay in the N. Y. Convention of 1821, *Report*, p. 184.

[19] *Statistical view of the population of the United States*, Wash., 1825.

[20] *Convention Report*, pp. 115, 116, 118, 121–25, 185, 186, 187, 222, 223, 249, 250, 277.

October, 1819. On the 20th, Mr. Vance of Calais, moved to insert "Negroes" after "Indians not taxed," in the suffrage article. Mr. Holmes, who later as one of Maine's first United States Senators, took part in the debate in Congress on the Missouri question, opposed the motion with a brief and vigorous speech. "The 'Indians not taxed'", he said, "are excluded not on account of their color, but of their political condition. They are under the protection of the State, but they can make and execute their own laws. They have never been considered numbers of the body politic. But I know of no difference between the rights of the negro and the white man.—God Almighty has made none.—Our Declaration of Rights has made none. That declares that 'all men' (without regard to colors) are born equally free and independent." Two speeches, which were not reported, were made in favor of the motion, but it was lost, and the Constitution was adopted without a discrimination against Africans.[21] In discussing the right of one member to his seat, the question arose whether the provision of the Massachusetts constitution, that a representative must reside in the town he represents, applied to a member of the convention. It was repeatedly asked, according to Judge Thacher, whether the convention would not have the right to turn out a minor or black, if any town should happen to send one. No doubt it was assumed as a matter of course that the presence of a black man as a member of the convention would be intolerable. Judge Thacher alone seems to have had the courage and disposition to say that he did not believe the convention would have a right to exclude such a representative on account of the color of his skin.[22] Only 929 negroes lived in Maine, in 1820,[23] and there, as elsewhere, negro equality was much more a matter of verbal consistency than of real feeling.

Maine, Vermont, Kentucky and Tennessee were the only states that came into the Federal Union without a suffrage discrimination against negroes until the admission of Nebraska

[21] *The Debates, Resolutions, and Other Proceedings of the Convention of Delegates*, etc., Jeremiah Perley, Portland 1820, p. 95; see also *Journal of the Constitutional Convention of the District of Maine*, etc., 1819–20, printed by Fuller and Fuller in 1856.

[22] *Debates*, etc., p. 64.

[23] Statistical View, 1825, p. 16.

in 1867. Every one of the other new states, north or south, forbade black men to vote. Of the four that did not, Kentucky adopted a color discrimination in 1799, and Tennessee in 1834, while Vermont and Maine never had any kind of discrimination against Africans in their constitutions.

Federal Legislation

The Federal government in 1789 re-enacted the Ordinance of 1787 with its impartial suffrage provision.[24] In 1800, that part of the ordinance which related to the organization of a general assembly, and which included the suffrage clause, was applied to Mississippi Territory[25] and to Indiana Territory.[26] In 1805, the provisions of the Mississippi act were extended to the Territory of Orleans, the boundaries of which were then about the same as those of the present state of Louisiana.[27] The frame of government, including the suffrage provision, outlined in the Ordinance of 1787, was re-enacted for the Territory of Michigan in 1805,[28] and for the Territory of Illinois in 1809.[29] This was the last time until after the Civil War that any act providing for a territorial government, which contained a suffrage clause, did not exclude negroes from the right to vote. It is to be noted, however, that, unlike most of the later statutes which prescribed merely who should vote at the first election and left the fixing of permanent suffrage qualifications to the territorial legislature, the Ordinance of 1787 and the extensions and re-enactments of it which have been mentioned, settled who should be voters in all territorial elections and left nothing to the discretion of the local government.

The enabling acts for Ohio in 1802,[30] and for Indiana in 1816,[31] contained no color distinction in designating who should vote for delegates to the constitutional convention; but the word

[24] Poore I., p. 433.
[25] *Ibid.*, II, p. 1051.
[26] *Ibid.*, I., p. 434.
[27] *Ibid.*, I., p. 696.
[28] *Ibid.*, p. 982.
[29] *Ibid.*, I., p. 435.
[30] *Ibid.*, II., p. 1453.
[31] *Ibid.*, I., p. 497.

"white" was inserted in the acts for Louisiana in 1811,[32] for Mississippi in 1817,[33] for Illinois in 1818,[34] for Alabama in 1819, and in all subsequent enabling acts before the Reconstruction period. But these were not the first important race discriminations enacted by the Federal government. The word "white" presented a barrier to the negro in the naturalization law, approved March 26, 1790,[35] in the militia law of May 8, 1792,[36] and in the law approved May 3, 1802 to incorporate the City of Washington, which confined the elective franchise to "free white male inhabitants."[37] By an act of 1804 providing for the government of Louisiana and Orleans, only "free male white persons" were permitted to serve as grand or petit jurors in the courts of the Territory.[38] By an act of 1808, "extending the right of suffrage in the Mississippi territory," it was provided that only whites should be entitled to vote for representatives to the general Assembly.[39] This Mississippi law was the first territorial act that contained the discrimination against negroes with respect to the elective franchise, as the Illinois law of the next year was the last that was free from it.

The Missouri Debate, 1820

This dry enumeration brings us to the discussions on the admission of Missouri, in which the omnipresent negro suffrage question made its appearance. On February 28, 1820, in the House of Representatives, Mr. Taylor moved an amendment to the Missouri bill. Immediately John Randolph moved to insert the word "white," "a matter—of some importance yet to those on the south side," and proposed to speak at length, when Mr. Taylor accepted his amendment. After some discussion of the bill, Mr. Allen of Massachusetts moved to strike the word "white" from the suffrage clause of the enabling act, and made

[32] *Ibid.*, I., p. 699
[33] *Ibid.*, II., p. 1053.
[34] *Ibid.*, I., p. 436.
[35] *Annals of Congress*, Vol. II., pp. 2264 or 2205-6; U. S. *Statutes at Large*, Boston 1845, Vol. I., p. 103.
[36] *Annals*, III. p. 1392; *Statutes*, I. p. 271.
[37] *Annals*, XI. p. 1377; *Statutes*, II. p. 196.
[38] Poore, I., p. 693.
[39] Poore, II., p. 1052.

a speech in favor of his motion. Mr. Randolph replied, speaking for an hour and a half. When the vote was taken, Mr. Allen was the only man who rose in support of his amendment.[40]

On the 7th and 8th of December, 1820, there occurred in the Senate a debate on that clause of the Missouri Constitution which made it the duty of the Legislature to prohibit the immigration of free negroes into the State. An amendment providing that Congress did not assent to this clause was rejected by the votes of all but nine senators. Northern men continued the argument with the assertion that the section excluding free blacks violated the Constitutional provision that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." In Massachusetts, New Hampshire and Vermont, Africans had equal rights with white men, and, under the Constitution, they could not be deprived of their equal rights if they should desire to settle in Missouri. Mr. Smith, of South Carolina, replied by showing that nearly all the Northern States had some legal discrimination against free negroes, that some of them had laws against negro immigration from other states, and that, in the last session of the Pennsylvania legislature, a motion had been made to inquire into the expediency of exclusion laws. The Southerners found a strong ally in Senator Holmes of Maine, who, in the Maine Convention of 1819, had cited the Declaration of Independence to prove that negroes ought to be permitted to vote, and who now made a speech which adds to the evidence that the presence of emancipated slaves was hardly more welcome in the North than in the South. "Their vices and frailties render them an incumbrance, if not a nuisance, wherever they reside. It is just that the evils arising from such a population should be sustained by those who have had the benefit of their labor, and who have contributed in some measure to their degradation." "To be forced, against our will, to receive free blacks from the slaveholding States, is a doctrine that I, as a Northern man, do not so fully relish." He added that it was absurd to suppose that the framers of the Constitution intended to sanction negro

[40] Benton, T. H., *Abridgement of Debates*, VI., p. 561; *Annals of Congress*, Vol. XXXVI., pp. 1555, 1556. The substance of the speeches is not reported.

equality. "Gentlemen, with all their humanity, to be obliged to sit in this Senate by a black man, would consider their rights invaded."[41] The Maine Convention that gave negroes the right to vote had also admitted that the presence of Africans as members of a legislature would be intolerable. That men who made these frank confessions of race prejudice should champion negro suffrage indicates how powerfully their minds were affected by the Revolutionary principles of liberty and equality.

New York, 1821

In New York, in 1785, two-thirds of the senate and a majority of the assembly were in favor of forbidding negroes to vote; but the suffrage was preserved to black men by a veto of the Council of Revision.[42] On the 5th of April, 1811, the Council, comprised of Governor Tompkins, Chancellor Lansing, Chief Justice Kent, Justices Thompson, Spencer, Van Ness and Yates, vetoed a bill entitled "An act to prevent frauds at elections, and for other purposes." The obligations, written by Chancellor Lansing, were: that the bill provided that "persons of color" must produce certificates of their freedom at all elections; that the description of "persons of color" was too indefinite and might be made to include all gradations of mixture between the African and the white man; that no provision was made to compel witnesses to testify before officers who are authorized to take proof of a negro's freedom; and that the bill established the principle "that all black men and men of color are presumed to be slaves until they prove that they are free."[43] The bill passed the Senate over the veto but failed to secure two-thirds of the Assembly. At the same session, however, another bill became law which likewise provided that, in order to vote, a negro must prove his freedom, but which remedied the objection that no adequate means were given a black man to secure proof of his emancipation. This law was entitled "An act to prevent frauds at elections and slaves from voting."[44] In 1814, a new

[41] Benton, *Abridgement*, VI., pp. 662, 664, 669, 670, 672-680, 691.
[42] *Ante*, p. 17.
[43] Street, *New York Council of Revision*, pp. 362-363, 364.
[44] *Laws of New York; Revision of 1813*, II., p. 253; *Hard*, II., p. 54.

section applying only to New York City, provided that certificates of freedom should be recorded in the office of the registrar; and that a copy of the record should be the certificate of freedom which a free black was required to produce at elections before he could vote.[45] The obvious intent was to put difficulties in the way of a negro elector; but that such a law was passed, shows that negroes must have continued to vote in small numbers after the veto of 1785, and helps explain why the problem of negro suffrage came before the New York Convention of 1821.

The old New York constitution of 1777 required a property qualification of twenty pounds in order to vote for members of the Assembly.[46] Most free negroes were therefore excluded from the elective franchise, although it may be that negroes as well as whites voted illegally. It was said that, in 1813, the votes of three hundred free negroes in New York City decided the election in favor of the Federalists and determined the character of state legislature.[47] If this statement is true, the fact may account for the law of 1814 for the recording of certificates of freedom. But only one hundred and sixty-three negroes, it was asserted, voted in New York at the spring election of 1821.[48] There were more than five hundred, however, who tried to vote, and it was estimated that if all property qualifications were abolished, there would be twenty-five hundred negro electors in the city of New York alone.[49]

When the convention of 1821 met, it was a practical certainty that the property qualifications for voters would be abolished. The convention, therefore, had to consider the question whether the liberal suffrage provision should extend to blacks as well as to whites. The first proposition to be considered was an article limiting the suffrage to white men. The debate began September 19, 1821. Those who favored restriction argued that it was not a question of rights. "That all men are free and equal, according to the usual declarations," said Mr. Ross, "applies

[45] *Laws of New York, Thirty-Seventh Session,* pp. 94, 95; Hurd, II., p. 55.
[46] Poore, II., 1334.
[47] 1821 *Con. Report.,* p. 212.
[48] *Ibid.,* p. 197, Gen. Tallmadge.
[49] *Ibid.,* pp. 198, 199.

to them only in a state of nature, and not after the institution of civil government, for then many rights, flowing from natural equality, are necessarily abridged, with a view to produce the greatest amount of security and happiness to the whole community."[50] General Root explained his views of the social compact: "In the formation of a social compact, which generally grows out of exigency, when the people are but a little removed from their barbarous and rude state, they are not particular in enumerating the principles upon which they thus unite, but when they have become more enlightened, they will undertake to say who shall belong to their family."[51] Colonel Young denied that the right of voting was a natural right: "A natural right is one that is born with us. No man is born twenty-one years old." If there were a natural, inherent right to vote, it ought to be extended to women and children.[52] Chief Justice Spencer declared "that the community has a right to secure its own happiness and prosperity, and that we are authorized to adopt all means that shall conduce to that end."[53] The question, therefore, was altogether one of expediency; and it was inexpedient and dangerous to let negroes vote in any considerable numbers. They could not vote discreetly and independently. "They have no just conception of civil liberty. They know not how to appreciate it and are consequently indifferent to its preservation."[54] They lacked intelligence. They were born in slavery and would vote according to the behests of rich men for whom they worked. "That man who holds in his hands the subsistence of another, will always be able to control his will." Negro suffrage would enable the rich man to control many votes and would therefore foster an aristocracy.[55] Others argued that negroes certainly ought not to be given the elective franchise when it is with-held from the Indians, "the original and only rightful proprietors of our soil," who were far superior to negroes in intellingence and worth.[56] Black men were without

[50] *Ibid.*, p. 180.
[51] *Ibid.*, p. 185.
[52] *Ibid*, p. 189.
[53] *Ibid.*, p. 195.
[54] *Ibid.*, p. 180. Ross.
[55] *Ibid.*, p. 197, Chief-Justice Spencer.
[56] *Ibid.*, p. 181, Ross. p. 199, Livingston.

education: many of the most inteiligent could not write their own names.[57] They were a degraded race, partly indeed through the white man's fault;[58] the number of negroes in jails and penitentiaries was out of all proportion to the negro population of the State.[59] Africans were excluded from the militia and were not called upon to defend the country.[60] There was a universal prejudice against black men: "This distinction of color is well understood. It is unnecessary to disguise it, and we ought to shape our constitution so as to meet the public sentiment." Negroes were not permitted to have social intercourse with whites, nor be elevated to office, nor asked to serve on juries.[61] Yet if they should be permitted to vote they would soon make the unspeakable demand to be represented in the halls of legislation by men of their own color.[62] It was true that only a few blacks were voting; but emancipated slaves were flocking into the state, particularly into the metropolis,[63] and the abolition of property qualifications would let loose upon the city of New York an indescribable horde of ignorant, degraded negro electors.[64]

The opponents of disfranchisement argued that it would violate the second section of the fourth article of the Federal Constitution. The right of suffrage was one of the privileges which one state could not deny to the citizens of another.[65] Rufus King took this view. "The question was not a pressing one now, for emancipated slaves were not citizens; but their children would be. As certainly as the children of any white man are citizens, so certainly the children of black men are citizens; and they may in time raise up a progeny, which will be disastrous to the other races of this country."[66] Chancellor Kent merely expressed the opinion that the constitutionality of disfranchise-

[57] *Ibid.*, p. 198, Livingston.
[58] *Ibid.*, p. 196, Ch. J. Spencer.
[59] *Ibid.*, p. 191, Col. Young.
[60] *Ibid.*, p. 185, Ross, Gen. Root.
[61] *Ibid.*, p. 190, Col. Young.
[62] *Ibid.*, p. 181, Ross.
[63] *Ibid.*, p. 196, C. J. Spencer.
[64] *Ibid.*, p. 199, Livingston.
[65] *Ibid.*, p. 184, Jay.
[66] *Ibid.*, p. 192. Also *The Life and Correspondence of Rufus King*, edited by Chas. R. King, VI., p. 405, 406.

ment was doubtful.[67] He also thought the word "white" too sweeping and indefinite. "The Hindoo and Chinese are called yellow—the Indian red! Shall these be excluded should they come to reside among us? Great efforts were now making in the Christian world to enlighten and improve their condition, and he thought it inexpedient to erect a barrier that should exclude them forever from the exercise of this important right."[68] No one else expressed principles so broadly inclusive; but several were disposed to deny that the African was intrinsically inferior to the Caucasian, though slavery might temporarily have degraded him. "It does not become those who have acted so unjustly toward them to urge the results of that injustice as a reason for perpetuating their degradation," said Mr. Van Vechten.[69] Mr. Peter Augustus Jay, the most fiery champion of the negro in the convention, referred to the doctrine "that the intellect of a black man is naturally inferior to that of a white one" as "completely refuted and universally exploded", and did not think it worth while to disprove it. Slavery indeed made negroes improvident and worthless; but, under the influence of schools and churches, they were making rapid progress;[70] while the prejudice of whites against blacks, which the association of slavery with a dark complexion had produced, was already dying away, and would disappear when slavery should become unknown.[71] It might be true that some negroes would obey "the dictates of the purse proud aristocrats of the day, on whom they depend for bread"; but their fault would be no greater than that of "many thousands of white fawning, cringing sycophants." Moreover it might confidently be hoped that the "redeeming spirit in liberty" would ultimately regenerate these unfortunate people.[72] In order that free institutions might be fostered, the interests of every class should be attached to the government; but to disfranchise the Africans would "deprive them of every inducement to become respectable members of society," would be ordaining

[67] 1821 *Con. Report*, p. 191.
[68] *Ibid.*,
[69] *Ibid.*, p. 193.
[70] *Ibid.*, p. 184.
[71] *Ibid.*, p. 201.
[72] *Ibid.*, p. 188, R. Clarke.

that they become "fugitives, vagabonds, and outcasts," would compel them and their posterity to be the enemies of the whites, and cause them to view the white man's political institutions "with distrust, jealousy, and hatred."[73]

No one of the negro's champions pretended to regard him as a desirable citizen. It was unnecessary, Mr. Jay argued, to stain the Constitution with an odious discrimination merely to exclude a race that constituted only one-fortieth of the population of New York City, and whose numbers had remained stationary while the whites had multiplied. If black men were numerous, it might be dangerous to enfranchise or even emancipate them.[74] "I lament as much as any gentleman," said Mr. Clarke, "that we have this species of population amongst us. But we have them here without any fault of theirs.—— I would do them justice, and leave the consequences to the righteous disposal of an all-wise and merciful Providence."[75] These apostles of equality asserted that the prejudice, which they themselves shared and which everywhere prevailed, was wrong. "Do our prejudices against their colour destroy their rights as citizens?" inquired Mr. Van Vechten. "Whence do those prejudices proceed? are they founded in impartial reason, or in the benevolent principles of our holy religion?——People of color are our fellow candidates for immortality——. The same path to future happiness is appointed for them and us."[76] "How sir," Mr. Jay exclaimed, "can that argument be answered by reason which is not founded on reason?" Merely to gratify a prejudice, the Convention had no right to establish a degraded and discontented caste or to condemn the negroes to be aliens in their native land.[77] "However we may scorn, and insult and trample upon this unfortunate race now, the day was fast approaching when we must lie down with them in that narrow bed appointed for all the living."[78] The disfranchisement of Indians was on a different basis: they were members

[73] *Ibid.*, p. 188.
[74] *Ibid.*, p. 184–5.
[75] *Ibid.*, p. 189.
[76] *Ibid.*, p. 194.
[77] *Ibid.*, p. 201.
[78] *Ibid.*, p. 365.

of tribes with which treaties were made as with other nations,[79] but negroes were born neighbors and fellow-citizens of the whites. They were excluded from the militia, but they had been welcome volunteer soldiers when actual war occurred, both in the Revolution and the War of 1812. No one would stand in the ranks, shoulder to shoulder with negroes in time of peace: But when the hour of danger approaches, your "white" militia are just as willing that the man of color should be set up as a mark to be shot at by the enemy, as to be set up themselves.[80] Disfranchising the negro would be too much of a concession to prejudice, too great a surrender to the spirit of slavery. It would be regarded as a victory by the Southerners who had opposed negro rights in the Missouri debate in Congress, and the proposed exclusion of black men from the elective franchise would be greeted by the slaveholders with "a shout of triumph and a hiss of scorn."[81]

On the 20th of September a vote was taken and the word "white" was stricken out, 63 to 59.[82] What sentiments moved the majority? No doubt the arguments reviewed had much influence, especially the argument that it was unnecessary to "stain" the constitution when the number of blacks was so small. A few days later, in the discussion of another phase of the suffrage, Martin Van Buren delivered a florid period on "taxation and representation". These words, he said, "were never heard in our halls of legislation, without bringing to our recollections the consecrated feelings of those who won our liberties, or without reminding us of everything that was sacred in principle————. They offered the strongest evidence of their continued hold upon our feelings and our judgments, by the triumph they effected, over the strongest aversions and prejudices of our nature—on the question of continuing the right of suffrage to the poor degraded blacks."[83] As soon as the vote was taken, General Root renewed an amendment which he had offered on the previous day which excluded from the electorate

[79] *Ibid.*, p. 200.
[80] *Ibid.*, p. 187. R. Clarke.
[81] *Ibid.*, p. 184. Jay.
[82] *Ibid.*, p. 202.
[83] *Ibid.*, p. 257

all who would not if able-bodied and of full age be liable to militia service.[84] His avowed object was to disfranchise negroes who were excluded from the militia by federal law; but he urged the use of this indirect method because it would "preserve the delicacy of language, observable in the Constitution of the United States, which nowhere uses the word slave."[85]

Whether the object in view was "delicacy of language" or the welfare of the negro, the vote of September 20 did not represent the real sentiment of the convention. Several amendments were offered which discriminated against negroes by requiring of them higher qualifications than of white men.[86] A resolution was passed referring the subject to a select committee of thirteen. Of the members appointed by Daniel D. Tompkins, president of the convention,[87] nine had voted in the negative on striking out the word "white".[88] Their report, which provided that men of color should not be permitted to vote unless they had resided in the state three years, and owned and had paid taxes on a freehold estate worth two hundred and fifty dollars above all incumbrances, that no person of color should pay any taxes unless he owned real estate of this value, and that white men could vote after one year's residence and payment of taxes or the rendering of highway and militia service,[89] came before the convention on the 6th of October.[90] The discrimination against blacks was no doubt a compromise of conflicting opinions.[91] There was an influential element in the convention, represented by Chancellor Kent, Rufus King,[92] and Mr. Platt, who favored a property qualification but were opposed to color distinctions. Kent was willing to accept the proviso because it left the negro some hope. The prospect of becoming a voter would encourage industry and thrift: "But he was unwilling to see them disfranchised and the door eternally barred against

[84] *Ibid.*, p. 202.
[85] *Ibid.*, p. 186.
[86] *Ibid.*, p. 290, Wendover, and Birdseye, p. 291, Radcliffe and R. Smith.
[87] *Ibid.*, p. 657.
[88] *Ibid.*, pp. 202, 289–90.
[89] *Poore*, II., p. 1343.
[90] 1821 *Con. Report.*, p. 357.
[91] *Ibid.*, p. 346, Tallmadge; p. 376, Young.
[92] *Ibid.*, p. 287.

them.''[93] Van Buren favored the report of the committee because it held out inducements to industry and because it exempted negroes from taxation until they had qualified themselves to vote.[94] Mr. Briggs, who wished to disfranchise negroes altogether, urged that property was no more a just test for black voters than for white voters;[95] he ridiculed the idea that the right of suffrage would elevate the negro, and impatiently asked ''whether it would elevate a monkey or a baboon to allow them to vote.''[96] Mr. Bacon declared that it was wrong to introduce a principle of caste without a strong political necessity. The negroes were so few that no danger was to be apprehended from permitting them to vote. If they were to be excluded from the electorate, it would be more honorable to exclude them directly, for the property qualification would disfranchise practically every one of them. Mr. Eastwood said he was opposed to ''letting in black vagabonds to vote'', but felt more liberal than the select committee, and therefore moved to strike out two hundred and fifty dollars and insert one hundred dollars. His motion was lost, and the report of the committee was carried by a vote of 72 to 31.

Immediately Mr. Platt, who had previously voted to strike out ''white'', moved to expunge the proviso relating to men of color. He was not disposed to be the black man's knight errant: ''But the obligations of justice are eternal and indispensable.'' He admitted that few negroes could vote properly; but, instead of ''this unjust and odious discrimination of colour,'' he would adopt a qualification that would exclude also the ''ignorant and depraved white men''. Negroes were just beginning to make progress. It would be wrong to discourage them, especially by this dishonest indirection. ''The real object is, to exclude the oppressed and degraded sons of Africa; and, in my humble judgment, it would better comport with the dignity of this convention to speak out, and to pronounce the sentence of perpetual

[93] *Ibid.*, p. 364.

[94] *Ibid.*, p. 376. Also Sharpe, p. 364, see also Shepard, E. M., *Martin Van Buren, American Statesmen Series*, p. 68.

[95] 1821 *Con. Report*, p. 364.

[96] *Ibid.*, p. 365.

degradation, on negroes and their posterity forever, than to establish a test which we know they cannot comply with and which we do not require of others."[97] There were 71 votes against Mr. Platt's motion and only 33 for it. Four of the 33 had voted against striking out the word "white". The remaining 29 therefore represent the real strength of the sentiment in favor of putting negroes on an equality with white men with respect to the elective franchise. Among them were such notable men as Platt, the two Van Rensselaers, Rufus King and Chancellor Kent. An examination of the vote with respect to the nativity of members fails to show that natives of New England voted for suffrage in larger proportion than natives of New York. Nor does there seem to have been anything noteworthy about the geographical distribution of the vote. New York City had the most considerable negro population, and it was said that, before the meeting of the convention, restrictions on the negro's right to vote were expected or desired only by some citizens of New York.[98] Yet, of the eleven members from New York County, five voted *aye* on striking out the word "white", only four voted *no*, and two were absent; and three New York members voted against the discriminating property requirement.

It is hardly warrantable to call a convention, which greatly restricted the negro's right to vote by raising the property qualification for black men from £20 to $250 and abolished it altogether for white men, "a dominant emancipating agent in American democracy."[99] Nevertheless there had undoubtedly been, since the veto of 1785, appreciable progress of opinion favorable to the African race. In 1785, nearly two thirds of both houses of the legislature wished to deprive negroes of the elective franchise altogether. In 1821, a majority were opposed to absolute denial of the suffrage and a considerable minority refused to sanction any restriction that did not apply to whites as well as blacks. Mr. Platt pointed to the change of opinion on slavery since the time, sixty years before, when the colonial

[97] *Ibid.*, pp. 374, 375.
[98] *Ibid.*, p. 195, Van Vechten.
[99] Thorpe, F. N., *Constitutional History of the American People*, II., p. 353.

assembly passed a law with the preamble: "Whereas justice and good policy require, that the African slave trade should be liberally encouraged."[100] "The astonishing progress of the human mind, in regard to religious toleration; the various plans of enlightened benevolence; and especially the mighty efforts of the wise and good throughout Christendom, in favour of the benighted and oppressed children of Africa,"[1] had no doubt produced a "visible decay of prejudice."[2] Even if it had been intended to disfranchise all negroes indirectly, it meant much that men had come to feel ashamed to adopt an express exclusion of Africans from the right to vote. It is also significant that Mr. Jay, the negro's most ardent champion, opposed disfranchisement because the South would regard it with a feeling of triumph. In 1778, the opponents of equal rights in Massachusetts had advanced the idea that the South would be offended. But in 1821, the Missouri struggle had roused the temper of many Northerners and there was henceforward a growing tendency with respect to negroes: "To befriend them in the spirit of political opposition, as well as from the gentler dictates of human pity."[3]

Tennessee, 1834

The next state that took decisive action on negro suffrage was Tennessee. The suffrage clause of the constitution of 1796 was probably not intended to confer the elective franchise on negroes, for it was adopted without debate;[4] but, as there was no express prohibition, negroes sooner or later began voting.[5] Negro voters must have become numerous enough to constitute an important element, for it is said: "The opposing candidates, for the nonce oblivious of social distinction and intent only on catching votes, hobnobbed with the men and swung corners all with dusky

[100] *Ibid.*, p. 375.

[1] *Ibid.*, 375.

[2] Wright, *Manners in America*, p. 73.

[3] *Ibid.*, p. 71.

[4] Sanford, E. T., *The Constitutional Convention of Tennessee* of 1796, reprinted from the *Proceedings of the Bar Assoc. of Tenn. for 1896*, p. 31.

[5] *Ibid;* also *Studies in the Constitutional History of Tennessee,* Joshua W. Caldwell, p. 93.

damsels at election balls."[6] John Bell and Cave Johnson said that they were elected to Congress by the aid of colored men's votes, the latter boasting that he owed his election in 1828 to one hundred and forty-four free negroes who worked in his mills.[7] However a strong opposition to negro suffrage was growing up. The exigencies of slavery made free negroes less and less welcome while the liberal suffrage clause seemed to draw more and more of them into the state. The people of Tennessee became anxious to check their immigration.[8] During the twenties, the anti-slavery agitation in the North and the growing pro-slavery sentiment in the South, produced throughout Tennessee, strong manifestation of opposition to negro citizenship. The laws against free negroes became stricter, and at length, on December 16, 1831, the legislature forbade them to enter the state and provided that slaves should not be freed except on condition that they be removed from the commonwealth as soon as they might be emancipated.[9] The constitution of 1834 confined the suffrage to white men, but provided: "that no person shall be disqualified from voting in any election on account of color who is now, by the laws of this State, a competent witness in a court of justices against a white man."[10] The anti-slavery sentiment was still strong and the convention was far from unanimous: the suffrage clause was carried by a vote of thirty-three to twenty-three.[11] It was also provided that only those qualified under the proposed article could vote on the amended constitution.[12]

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[6] Quoted by Weeks in *Pol. Soc. Quarterly*, IX., p. 676, from Buxton's, *Reminiscences of the Bench and Fayetteville Bar.*

[7] Weeks, p. 676, who refers to Summer's *Works*, X., p. 192; The *Works of James Abraham Garefild*, edited by B. A. Hinsdale, I., p. 89; also *Cong. Globe*, 1 S. 33 C., p. 1305, May 24, 1854, Mr. Petit; and, 2S. 38 C., 284, Jan. 16, 1865.

[8] Caldwell, *Studies*, pp. 93, 113.

[9] [Goodspeed] *History of Tennessee*, pp. 755, 1756.

[10] *Ibid.*, p. 225; Poore, II., p. 1683. This provision excluded "All negroes, Indians, Mulattoes and all persons of mixed blood, descended from negro and Indian ancestors, to the third generations inclusive," and all freedmen, of whatever blood, for twelve months after emancipation. Revision of 1831, p. 377; Revision of 1836, p. 712.

[11] Garfield, J. A., *Works*, I., p. 89.

[12] Caldwell, *Studies*, p. 226.

North Carolina, 1835

Up to this time there had been a strong anti-slavery sentiment in the border slave states. In the western parts of Virginia and the Carolinas, in Northern Georgia and in eastern Kentucky and Tennessee, anti-slavery agitation up to 1830 was more vigorous than anywhere in the northern states. It was especially strong in western North Carolina which was a region of small farms and democratic ideals and which contained a considerable Quaker population. From 1830, however, southern anti-slavery societies began to pass out of existence and by 1840 Southern anti-slavery sentiment had been practically silenced.[13] These facts help account for the history of negro suffrage in that state. The constitution of 1776 did not expressly forbid negroes to vote.[14] During the Revolution many of them were employed as soldiers, some took the oath of allegiance,[15] as early as 1778 they were recognized as citizens,[16] and it seems probable that some negroes continued to exercise the electoral privilege from early colonial times down, and that, during and after the Revolution as the number of free blacks increased, there was a great increase in the number of black voters.[17] They even formed political alliances, in some northern counties became an important factor in elections, made friends of the party allies and foes of their party opponents.[18] Whether or not the framers of the constitution expected negroes to vote, there is no doubt "that a long and silent acquiescence in the enjoyment of certain political rights . . . created a violent presumption in their favor."[19] As they became inconveniently numerous, there arose

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[13] Bassett, J. S., *Anti-Slavery Leaders of North Carolina, Johns Hopkins' Historical Studies*, XVI., p. 267; Weeks, S. B., *Anti-Slavery Sentiment in the South, Publications of the Southern History Ass'n., April*, 1898, II., pp. 87, 88, 89, 93.

[14] Poore, II., p. 1411.

[15] *N. C. Con. Report.*, p. 354.

[16] Weeks, S. B., *Pol. Soc. Quarterly.*, IX., p. 675.

[17] Bassett, J. S., *Slavery in the State of N. Carolina, Johns Hopkins' Historical Studies*, XVII., p. 354.

[18] *Ibid*; also Dodge, D., *The Free Negroes of North Carolina, Atlantic Monthly.*, Jan 1886, vol. LVII., p. 25.

[19] *N. C. Con. Report.*, p. 63. Mr. Bryan.

a demand that they be disfranchised. This demand became stronger with the growth of pro-slavery sentiment in opposition to anti-slavery agitation in the North.[20] In 1826, Bartlett Yancey wrote, that in all the counties and nearly all the towns of the state there was hostility to negro suffrage due to the work of colonization and abolition societies.[21] He probably referred to the anti-slavery societies in North Carolina which were then 50 in number and had 3,000 members.[22] A law was passed forbidding negroes or mulattoes to hold office.[23] The convention of 1835, by the law which provided for calling it, was empowered to consider the disfranchisement of free negroes.[24] By this time the colored people, because of indisposition or fear of whites, had ceased voting in some communities,[25] while in some places they had probably never voted. In the convention of 1835 it was said that "in several of the Eastern counties they are not permitted to vote, and they have acquiesced in this determination with cheerfulness and contentment."[26] Representatives from Iredell and Perquimons asserted that free blacks had never voted in either of those counties.[27] On the other hand, it was said that there were 300 colored voters in Halifax, 150 in Hertford, 50 in Chowan, and 75 in Pasquotank;[28] and by another member that it would be impossible to ascertain the number of white voters, because half the clerks in their returns to the comptroller's office, failed to distinguish between black and white polls.[29]

The convention began the discussion of negro suffrage on the 12th of June, 1835. The friends of the African seem to have had no hope of securing for him equal voting privileges with white men. They put forth all their efforts to secure a property qualification that would permit some negroes to retain the val-

[20] Bassett, J. S., *op. cit.*
[21] Weeks; *Pol. Sci. Quar.*, IX., p. 676.
[22] Weeks, *Southern Historical Assoc. Pub.*, II., p. 89.
[23] Bassett, *op. cit.*; *N. C. Con. Report.*, p. 71.
[24] Bassett, *op. cit.*; *N. C. Con. Report.*, p. 66.
[25] Bassett, *op. cit.*
[26] *N. C. Con. Report*, 1835, p. 69, Mr. Bryan.
[27] *Ibid.*, p. 353, King, p. 355, Wilson.
[28] *Ibid.*, pp. 70, 80.
[29] *Ibid.*, p. 30.

ued right and offered several propositions looking to that end.[30] The first of these, introduced by Mr. Daniel, was avowedly modelled after the New York provision and, like it, provided that no free person of color should have the right to vote unless he possessed a freehold worth $250.[31] The adoption of such a clause would "leave the door open to all colored men of good character and industrious habits," who would find no difficulty in obtaining the necessary qualification.[32] Judge Gaston protested that a negro who was an honest freeholder and perhaps a Christian, "should not be politically excommunicated, and have an additional mark of degradation fixed upon him on account of his color."[33] He and several other members appealed to the fear of slave insurrections.[34] The denial of the suffrage would be regarded by free negroes as indicative of an intention to degrade and reduce them to a condition akin to slavery.[35] "If we close the door entirely against this unfortunate class of our population," said Mr. Moorhead, "we may light up the torch of commotion among our slaves."[36] The result might be scenes of desolation and distress. Kindly treatment of the respectable negroes would attach them to the white population and as in the West Indies and other places, would make them serviceable in disclosing symptoms of discontent among the slaves.[37]

Only one of the men who advanced this argument from expediency was bold enough to declare that it was sufficient for him that 'they are human beings, and free agents, and have a free will."[38] Mr. Kelly contended "for the broad principle that all men are entitled to equal rights,"[39] and Mr. Toomer asserted that to abrogate the black man's right to vote

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[30] *Ibid.*, p. 60, Daniel, p. 73, Shober, p. 80, Moorhead, p. 352, Gaston, p. 353, Fisher, Holmes, p. 357, Dockery.

[31] *Ibid.*, pp. 60, 61.

[32] *Ibid.*

[33] *Ibid.*, p. 79.

[34] *Ibid.*, pp. 79, 72, 354, Holmes, p. 73, Shober, p. 74, Giles, p. 80, Moorhead.

[35] *Ibid.*, p. 352, Gaston.

[36] *Ibid.*, p. 80.

[37] *Ibid.*, Holmes pp. 72, 353.

[38] *Ibid.*, p. 72, Shober.

[39] *Ibid.*, p. 356.

"would be tyranny; and the plea of policy could not alter the case, as that had, in all ages, been the cry of tyrants, to justify their oppressions."[40] Mr. Daniel reminded the convention that negroes had fought in the war for independence.[41] Nor was the injustice of taxation without representation forgotten.[42] "It is contrary to all the principles of free government," said Mr. Kelly, "to tax a man and refuse him a right to vote for a member of the Legislature who lays the tax."[43] Most of the friends of the negroes however, seemed willing to admit that a black man was not as good as a white man.[44] Mr. Daniel declared that his observation during thirty years past showed that the colored man of property and standing uniformly voted for representatives of talents and good character, but he admitted there were many worthless blacks to whom the suffrage ought to be denied.[45] Mr. Holmes said: "Such of them as possess property, and are of good standing, ought to be distinguished from those of the class who are vicious and disorderly. Many of them are in a degraded and corrupt state.[46] From an opposite view point, the negroes' enemies gave about the same testimony. They admitted that there were a few exemplary and meritorious negroes, but thought it bad policy to attempt a line of distinction between the worthy and the unworthy.[47] Most of them were incapable of voting judiciously: "With a little drink and some trifle, they could be bought like a lot of poultry."[48] They did not vote for the best men: "Any candidate who would associate with them, might obtain their vote, however low his qualifications."[49] Their want of education, the tame spirit of submission with which they are moulded to the will of an influential neighbor renders it entirely impolitic that they should enjoy the

[40] *Ibid.*, p. 80.
[41] *Ibid.*, p. 61.
[42] *Ibid.*, p. 72, Shober.
[43] *Ibid.*, p. 256.
[44] Bassett, *Suffrage in N. Carolina*, *Report* of the Am. Hist. Assoc., 1895, p. 278.
[45] *N. C. Con. Report.*, 1835, pp. 61–62.
[46] *Ibid.*, p. 72.
[47] *Ibid.*, p. 75, Crodop and McQueen.
[48] *Ibid.*, pp. 79, 80, Cooper, Wilson.
[49] *Ibid.*, p. 74, Crodop.

privilege.[50] Public opinion was on the side of the opponents of negro suffrage. It had come to pass that the support of negroes was an element of weakness to a politician. Opposing candidates twitted each other about this part of their constituency and declared themselves willing to throw out every free negro ballot if their opponents would follow their example. Twenty years ago (1906) there was still a tradition among the negroes of Granville county that they had been disfranchised because of their persistent support of an able and unscrupulous demagogue named Potter.[51]

However well or ill colored men may have been qualified to vote, their possession of the elective franchise, as the enemies of negro suffrage were not slow to point out, was decidedly incongruous with their general position in the body politic.[52] "The negro," said Mr. McQueen, "came here debased; he is yet debased, and there is no sort of polish which education or circumstances can give him, which ever will reconcile the whites to an extension of the right of suffrage to the free negro."[53] Even a free mulatto, he continued, could have no permanent interest in or attachment to the community: "He finds the door of office closed against him, by the bars and bolts of public sentiment; he finds the circle of respectable society closed against him, let him conduct himself with as much propriety as he may; he finds himself suspended between two classes of society—the white and the black—condemned by the one and despised by the other; and when his favorite candidate in an election prevails, it communicates no gratification to his breast, for the candidate will be a white man, and he knows full well that the white man eyes him with contempt."[54] Mr. Wilson said: "We already exclude a colored person from giving testimony against a white person. A white man may go to the house of a free black, maltreat and abuse him, and commit any outrage upon his family—

[50] *Ibid.*, p. 79, Wilson.

[51] *Atlantic Monthly*, 1886., LVII., p. 25.

[52] "The strange anomaly of a class incompetent to testify in court, and otherwise almost as destitute of rights as brutes, exercising a function everywhere deemed the first of privileges, and which the vast mass of freemen in the most enlightened countries of the world are yet striving to attain." *Ibid.*

[53] *N. C. Con. Report*, 1835, p. 77.

[54] *N. C. Con. Report.*, 1835, p. 78.

for all which the law cannot reach him, unless some white person saw the act committed."[55] Mr. Bryan asked: "What becomes of the inalienable rights of these boasted freemen and citizens, when the legislature of our own state has passed an act, authorizing the courts, upon conviction of any of them, for a paltry misdemeanor, and an inability on their part to pay the costs thus incurred, that they be hired out for the same? If the same policy had been adopted with regard to *free white citizens,* is there a doubt in this convention, but that with one voice, from the mountains to the sea-shore, the people, the judiciary, and all the powers of the government, would have declared that the act was void, and that it was an unconstitutional deprivation of the liberties and privileges of a freeman! It cannot be disguised, that there is a vast and mighty difference between the Constitutional rights and privileges of a free white man and a free negro, or else the legislative construction and acts have done gross and violent injustice to this unfortunate class of inhabitants."[56] He denied that free negroes were citizens. The legislature had not interpreted the clause of the Federal Constitution concerning the privileges and immunities of citizens to include black men. North Carolina had put severe restrictions on their immigration into the state, and most states forbade them to vote. If negroes were citizens, all commonwealths that denied them the elective franchise were violating the Constitution of the Union.[57] They could not be called freemen within the meaning of the constitution of North Carolina.[58] "This is a nation of white people—its offices, dignities and privileges, are alone open to, and to be enjoyed by, white people."[59] To these declarations, Judge Gaston replied by a legal argument. Before the Revolution, the few freemen of color were chiefly mulattoes, the children of white women, and necessarily citizens, as in the law they followed the condition of their mothers. When the emancipation of slaves began, the act which directed the manner in which they might be manumitted, expressly declared them entitled to all the

[55] *Ibid.*, p. 80.
[56] *Ibid.*, p. 66.
[57] *Ibid.*, p. 64.
[58] *Ibid.*, p. 65.
[59] *Ibid.*, p. 67.

rights and privileges of colored freemen.[60] It was true that they could not give evidence against white men; but on precisely analagous grounds, the Civil Law forbade a father to give evidence for his son, or a son for his father.[61] Three years later, Judge Gaston had occasion, in delivering an opinion of the supreme court of the state, to elaborate his argument.[62] "Whatever distinctions may have existed in the Roman law between citizens and free inhabitants, they are unknown to our institutions." "Slaves manumitted here become freemen—and therefore if born within North Carolina are citizens of North Carolina—and all free persons born within the state are born citizens of the State." Negroes had been permitted to vote under the old constitution: "And it is a matter of universal notoriety that under it, free persons, without regard to colour, claimed and exercised the franchise until it was taken from freemen of colour a few years since by our amended constitution." Yet he was compelled to recognize the existing black laws, and was forced to argue, in effect, that a man might be a citizen under disabilities that in most respects would make his citizenship meaningless.

The race feeling against negroes came out still more strongly in other arguments that were advanced by the advocates of disfranchisement. The argument, which had been used in Massachusetts in 1778, in New York in 1821, and was yet to be heard in the discussions of the next thirty years, that negroes would come into the state was not overlooked. "Our good old State," said Mr. Bryan, "will become the asylum of free negroes; they will come in crowds from the North, South and West and we shall be overrun by a miserable and worthless population. If we hold out inducements to any portion of the human race, to come and settle amongst us, let it be to those of sober, honest and industrious habits, and such as feel an interest in and duly appreciate the institutions of the country."[63] Another cry, afterward to be uttered with unusual vigor in Pennsylvania, was: "No amalgamation of colors."[64] Mr. Wilson said "that however much

[60] *Ibid.*, pp. 351, 352.
[61] *Ibid.*, p. 357.
[62] *State v. Manuel*, Dec. 1838, 4 *Devereux & Battle*, p. 20.
[63] *N. C. Con. Report*, 1835, p. 68.
[64] *Ibid.* p. 67.

colored persons might be elevated, their color alone would prove a barrier to keep them in a degraded state. And the moment a free mulatto obtains a little property, and is a little favored by being admitted to vote, he will not be satisfied with a black wife. He will soon connect himself with a white woman."[65] It was argued that negro suffrage might lead to negro office-holding, and it was apparently assumed that the election of black justices and sheriffs would of course be intolerable.[66] To the argument that free negroes had served faithfully in the Revolution, Mr. Bryan replied that slaves as well fought bravely in the ranks, and that Congress had excluded free blacks from the militia.[67] Along with the demonstration that negroes were debased and degraded and could be abused by white men with impunity was set forth the reasoning that the negroes did not need the elective franchise as "they had no distinct interests to protect, and their general interests would be protected by the general representation of the State,"[68] and that the protection given by the state amply repaid the light taxes laid upon them.[69] Referring to the example of New York, Nathaniel Macon, who was president of the convention, argued that the situation in North Carolina was much different because the number of free negroes was very much greater. Perhaps the most solid logic employed by anyone on the side against negro suffrage was contained in Mr. McQueen's interrogation: "Is there any gentleman on this floor, who would be willing to see the right of suffrage extended to free persons of colour, if they were likely to constitute a majority of voters in the State?"[70] Probably not the most zealous fighter for negro rights, any where in the country, would at that time answered this question in the affirmative. Indeed, Mr. Jay, the New York champion of the negro, based one of his strongest appeals on the ground that colored voters were so few that they would be of no real importance in elections.[71] McQueen con-

[65] *Ibid.*, p. 71.
[66] *Ibid.*, p. 68, Bryan; p. 80, Wilson.
[67] *Ibid.*, p. 62.
[68] *Ibid.*, p. 356, McQueen.
[69] *Ibid.*, p. 68, Bryan.
[70] *Ibid.*, p. 77.
[71] *Ante*, p. 32.

tinued: "If we would not be willing to invest them with the right of suffrage, in case they were in a majority, it is not a sound principle to extend it to them whilst they are in a minority."[72] The rising tide of pro-slavery feeling showed itself in several expressions. One member declared that he would as soon admit his own slave to equality as any free negro.[73] The condition of free negroes was justified as superior to the situation of ancient helots or European serfs.[74] The subjection of black men was defended as necessary to cultivate marsh lands and carry out internal improvements.[75] Mr. Wilson, of Perquimans, a county on the ocean, said, he had heard almost everybody saying that slavery was a great evil. Now he believed that it was no such thing—he thought it great blessing in the South. Our system of Agriculture could not be carried on in the Southern States without it—we might as well attempt to build a railroad to the moon, as to cultivate our swamp lands without slaves.[76]

The votes show, however, that there was a considerable minority friendly to the negro. Mr. Daniel's proposition of June 12th, for a property qualification was amended on the same day by substituting a resolution proposed by Mr. Wilson: "That free negroes and mulattoes within four degrees, shall not in future be allowed to vote for members of the Senate or House of Commons."[77] This amendment was adopted by a vote of 61 to 58.[78] This resolution constituted the report of the committee of the whole, and the motion next day to strike out was lost, the vote standing 62 to 65. Then the report was adopted by a vote of 66 to 61.[79] As one would expect, the heaviest vote in favor of the negro was given by representatives from the anti-slavery region of the West. Of the 65 votes against striking out, 47 were cast by the east and 18 by the west. Of the 62 in favor of striking out the disfranchising provision, 40 were cast by the

[72] *N. C. Con. Report*, 1835, p. 77.
[73] *Ibid.*, p. 356, Carson.
[74] *Ibid.*, p. 62, Bryan.
[75] *Ibid.*, p. 70, Macon
[76] *Ibid.*, p. 80.
[77] *Ibid.*, p. 71.
[78] *Ibid.*, p. 72.
[79] *Ibid.*, p. 81.

west and only 22 by the east.[80] On the 6th of July, Judge Gaston brought up the subject again, and proposed a clause which would grant the voting privilege to colored men who "owned and possessed property, real or personal or both, of the clear value of five hundred dollars over and above all incumbrances, charges and debts." Although it was probably true that, as a member had said, even the requirement of $250 would either produce frauds or amount to a nearly total disfranchisement, the majority were unwilling to make the slightest concession. Judge Gaston's proposition was defeated, 64 to 55,[81] the substance of Mr. Wilson's resolution became a part of the state constitution[82] and there was no more negro suffrage in North Carolina until the days of Reconstruction. This provision went one generation beyond that adopted by Tennessee, excluding all those descended from negro ancestors to the fourth generation inclusive.

One would naturally suppose that the precedent of Tennessee would have been cited in the convention in North Carolina,[83] but no reference to this example is recorded in the debates. At least Mr. McQueen, who did more of the speaking against negro suffrage than anyone else, was clearly unaware that either Maryland or Tennessee had deprived the African of the elective franchise.[84] In other states there was similar ignorance of what action had been taken elsewhere or in former times. When the New York convention of 1821 was in session, the veto of 1785 was apparently forgotten, for it was never mentioned. In the Pennsylvania convention of 1837–1838, which will be next discussed, several members referred to the debates of the New York convention and to the action of other states but no one spoke of the disfranchisement of colored men in North Carolina and toward the end of the session, one member asserted that negroes could still vote in that state.[85]

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[80] Bassett, Am. Hist. Assoc. *Report.*, 1895, p. 280; or *Johns Hopkins' Historical Studies*, vol. XVII., 358.

[81] *N. C. Con. Report.*, 1835, p. 357.

[82] Poore, II., 1411.

[83] "This restriction no doubt had a reflex influence on North Carolina." Weeks, *Pol. Sic. Quar.*, IX., 674.

[84] *N. C. Con. Reports*, 1835, p. 79.

[85] *Penn. Con. Reports*, 1837–38, X., 355, Biddle.

Pennsylvania, 1837–38

In Pennsylvania, in 1837, there were many negro voters. It was roughly estimated by a member of the convention that some hundreds of colored men voted in York county, and some thirty or forty in Bucks.[86] Another member complained that the election in Bucks county that year had been influenced by the negroes and that the year before they had come within twelve votes of electing their candidate for Congress.[87] Allegheny, Dauphin, Cumberland, Juniata, Westmoreland and "many other counties" were also mentioned as places where negroes voted.[88] On the other hand, there were several thousand free negroes of full age in Philadelphia,[89] and they were all kept away from the polls by construing the constitution that the right to vote could not be exercised without a previous assessment.[90] They could not appear at the voting places with safety in the county of Philadelphia, and to bring them there "would endanger the peace and happiness of the whole black population." In many places throughout the state, "public sentiment rising above all law and the constitution, prevented them from coming to the polls."[91] Whether they were legally entitled to the elective franchise under the constitution of 1790 was an unsettled question,[92] about which, during the agitation which accompanied the session of the convention, "judges, lawyers, and statesmen, as well as citizens at large," differed "in diametrical opposition."[93] Election officers were doubtful as to whom they should permit to vote.[94] Before the meeting of the convention, little was thought about the subject. Two members, both from Philadelphia, had not known that any negroes had ever voted in any county in the state.[95] In North Carolina, the law which provided for the

[86] *Ibid.*, III., 90, Brown.
[87] *Ibid.*, V., 414, Sterigere.
[88] *Ibid.*, IX., 380, M'Cahen.
[89] *Ibid.*, I., 541, M'Dowell.
[90] *Ibid.*, I., pp. 82, 83, Martin.
[91] *Ibid.*, I., p. 478, Martin.
[92] *Ibid.*, III., p. 86, Woodward.
[93] *Ibid.*, X., 97, Hopkinson.
[94] *Ibid.*, IX., 383.
[95] *Ibid.*, I., 477, Martin; III., 90, Brown.

meeting of the convention of 1835 empowered it to disfranchise colored voters, but in Pennsylvania little had been previously thought or spoken of negro suffrage.[96] It was not one of the questions that led to the calling of the convention, it had probably not been discussed in any public meetings or proceedings that preceded the meeting of that body, and it had been agitated in hardly more than a single county at the time the delegates were elected.[97]

The first suffrage article reported to the convention on May 17, 1837, contained no color distinction. The convention met May 2.[98] But on the 19th of June, Mr. Sterigere proposed a substitute containing the word "white"[99] which was discussed on that day and on the 21st and 23rd.[100] The debate on this question and on printing a memorial protesting against disfranchisement, which was sent to the convention by eighty negroes of Pittsburg, aroused public interest, newspapers discussed the question and popular excitement spread over the whole state.[1] The convention adjourned from July 14 until October 17.[2] During this period much opposition to negro suffrage was manifested. Mr. Sterigere said: "After adjournment in July, I passed through near half the counties in the State, and found opposition to negro suffrage was almost unanimous. Persons of all parties expressed the strongest objection to any political association with this class of our population."[3] Mr. McCahen expressed the opinion that the people would not ratify the constitution unless colored men were expressly disfranchised.[4] Yet there was a minority on the side of the negroes. In some counties attempts were made to bring them to the polls, and the clash of opposing sentiments and opinions threatened serious difficulties.[5] When the convention met again, scores of petitions

[96] *Ibid.*, X., 96, Hopkinson.
[97] *Ibid.*, IX., p. 334, Earle.
[98] *Ibid.*, I., p. 233.
[99] *Ibid.*, I., p. 472.
[100] *Ibid.*, I., pp. 470–481, 540, 541, 561; III., pp. 82–91.
[1] *Ibid.*, V., 414, 416, IX., 357,
[2] *Ibid.*, III., 789.
[3] *Ibid.*, IX., 357.
[4] *Ibid.*, IX., p. 380.
[5] *Ibid.*, X., p. 96

and memorials, praying for disfranchisement or for impartial suffrage, were sent in from all parts of the state.[6] From Bucks county were sent twenty-six memorials and petitions asking that negroes be disfranchised and seven praying that they be permitted to vote; from Montgomery county, eighteen and two; and from Philadelphia county, fourteen and six, one of the latter having been sent ostensibly by colored people. One petition from Schuylkill, two from Lycoming, five from Westmoreland, one from Lancaster and two from York were opposed to negro suffrage: in favor of it were, one from Luzerne, coming from colored people, four from Lancaster, two from Mifflin, one each from Dauphin, Susquehanna, Deleware, and Washington, and fifteen from Chester. Most of the petitions, therefore, came from the eastern part of the state. Bucks, Montgomery, Philadelphia and Westmoreland, as far as the petitions are an indication, were the chief centers of opposition to negro suffrage, while all fifteen of the petitions from Chester were in favor of it. Meanwhile the question had been taken to the courts. Apparently, the lower tribunals had considered a few cases before the convention met, and when agitation was going on during the latter part of 1837, the friends of the negroes brought a number of suits to test the colored man's right to vote. In most of these cases it was decided that no such right existed.[7] In June, an appeal was taken to the supreme court of the state, and the case was argued before it in July;[8] but the decision, which was adverse to the negroes, was not handed down until after the convention had adjourned.[9]

Many of the arguments advanced in the Pennsylvania convention debates had been used before in the New York convention of 1821 and during the Massachusetts discussions of 1778.

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[6] *Ibid.*, V., pp. 414, 419, 426, 443; VI., pp. 46, 102, 298, 370, 371; VII., pp. 3, 117, 272, 295, 357, 384; VIII., pp. 91, 92, 113, 117, 161, 162, 193, 267; IX., pp. 41, 83, 114, 155, 219, 224, 225, 293, 294, 339; X., pp. 29, 193; XI., p. 3.

[7] *Ibid.*, III., p. 86; V. p. 423; IX., p. 353.

[8] *Ibid.*, III., p. 87.

[9] *Hobbs et al., v. Fogg;* 6 *Watts*, p. 553, or 35 *Penn.* p. 214. I cannot fix the date when the decision was made public, exactly; but language used in the convention on Jan. 18, 1838, (IX., 375) and later, (X; 47, 97) shows that the case was not yet decided; and expressions used by Chief-Gibson shows that he was writing after the adoption by the convention of the new suffrage clause. 6 *Watts*, p. 560.

Some were new, and some of the old arguments were viewed from new standpoints and developed by new illustrations.

Several members objected to the use of the word "white" as too indefinite.[10] This was the ground on which Gallatin was thought to have based his objections in 1790, but, said Mr. McCahen, there could no longer be any doubt as to the meaning of the word.[11] It was used in seventeen or eighteen state constitutions and in several laws of Congress, so that its significance had been settled.[12] Chief-Justice Gibson, however, thought that, for deciding cases of disputed color, it would have been better to fix a definite rule, such as forbiding mulattoes to the fourth generation to exercise the elective franchise.[13]

The opponents of negro suffrage urged that negroes were not fit to be voters, trying to make them equal to whites was as useless as were the attempts in early days to civilize the Indians, whose college education had aided them only "to beg from door to door, and ask for whiskey in Hebrew, Greek and Latin." An exceptional Indian or African, aided by the novelty of his situation, might acquire property and become a person of some consequence; but most of the negroes in Pennsylvania were still ignorant and degraded, despite great efforts that had been put forth to improve their condition.[14] It was true that they were in poverty and had had little time to rise in the social scale; but, said Mr. Sterigere: "You could not select 40,000 white people from the lowest ranks of society, and of the most worthless character who would not in the course of sixty years produce thousands of instances of successful industry, enterprise and intellectual powers. This comparison and view alone must satisfy everyone of the natural inferiority of the negro or Ethopian race."[15] Nine-tenths of them were degraded and debased, and, though only a few already voted, there were five thousand in the city of Philadelphia and ten thousand elsewhere, who, if definitely assured that they had a right to vote,

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[10] *Pa. Con. Report*, 1837-8., p. 471, Merril; IX., 375. Reigart; X., pp. 6, 7. Merril and Forward, 132. Konigmacher.

[11] *Ibid.*, III., 87.

[12] *Ibid.*, I., p. 472; III., p. 89.

[13] *Hobbs et al v. Fogg, op. cit.*

[14] *Pa. Con. Report*, III., p. 83.

[15] *Ibid.*, X., p. 86.

would "rush to the polls in senseless and unmeaning triumph," the colored boot-blacks and chimney-sweeps would jostle and elbow respectable citizens, and would be able to control elections and distribute offices.[16] To grant negroes the elective franchise would encourage them to come into Pennsylvania from the South.[17] This fear led to the adoption, by 56 to 50, of a resolution that a committee be appointed to inquire into the expediency of prohibiting future immigration into the state of free persons of color and fugitive slaves.[18] Neighboring free states restricted the migration of free blacks into their territory; the slave states were trying to drive them out of theirs. As a result, especially if negroes were granted the right to vote, Pennsylvania would be "inundated with the black population," whose habits were "more dissipated than those of any other portion of our citizens." "Tens and hundreds of thousands of this base and degraded caste" would be "vomited upon us," and would congregate in various places and control local elections.[19] Mr. Hopkinson said: "We have here a colored population of fifty or sixty thousand rapidly increasing. We have in our neighborhood, sister states overflowing with this population, who may pour them in upon us in countless numbers, and who are now doing so to an alarming extent without the encouragement now proposed to be given to them."[20]

If such great numbers of colored men were permitted to vote, they would be sure to elect black office-holders. Compromises in closely fought elections would enable them to become judges and legislators. No one could desire to see such a result. It would be unbearable to sit in a legislature even with a negro who was worth a hundred thousand dollars. Such a representative would surely be turned out of doors, for no one would legislate in company with men "whom you will not receive at your tables or in your houses as friends and acquaintances." It would not do to make voters of men who might be sold into slavery if they crossed the line into another state. It was

[16] *Ibid.*, I., p. 541, McDowell; III., p. 83, Martin; IX., p. 365, Sterigere; IX., p. 383, M'Cahen.
[17] *Ibid.*, I., p. 478, Martin.
[18] *Ibid.*, V., pp. 443, 457.
[19] *Ibid.*, V., pp. 453, 455, Mann, Brown; IX., 365, Sterigere.
[20] *Ibid.*, X., 94.

not to be thought of that it should be made possible for a southern gentleman to meet in the halls of Congress, taking part in national councils, the same slaves whom, a few years before, he had manumitted and sent to Pennsylvania.[21] Indeed a fugitive slave could be elected to the legislature, if the color distinction were omitted; and what a spectacle it would be if his old master should come and drag him out of his seat and send him home! To allow negroes to vote and hold office would be "amalgamation to the fullest extent."[22] This verbal thunder, which had been used in North Carolina,[23] was employed in about thirty five of the petitions and memorials that were sent to the convention.[24] A member inquired what specific object was feared under the name "amalgamation".[25] But what meaning was attached to the term is fairly clear from the language of the petitions: all thirty-five of them asked, substantially, "that measures may be taken to prevent all amalgamation between the white and colored population in regard to the government of our state." A more serious argument was made to the effect that, unless white people were willing to have their brothers and sisters and sons and daughters intermarry with negroes, it was a mere cheat to grant black men the elective franchise.[26] Political equality would be impossible without social equality: "For suffrage is only the expression of the opinions which are perpetually maturing under the influence of social intercourse and equality."[27]

The feelings of white people, however, made any real equality permanently unattainable. "There always must be an inequality," said Mr. Martin, "because negroes are naturally incapable."[28] God and nature had made a distinction between the races.[29] It was not their condition but their nature that had

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[21] *Ibid.*, I., pp. 477, 478, Martin; III., 90, Brown; IX., p. 328, Sturdevant, p. 366, Sterigere, p. 382, M'Cahen; X., 81, Payne, 95, Hopkinson.

[22] *Ibid.*, V., p. 418, Shellito; IX., p. 321, Martin.

[23] *Ante.*, pp. 57, 58.

[24] *Pa. Con. Report*, 1837–8., V., 443; VII., pp. 3, 272, 295, 357, 384; VIII., pp. 92, 113, 161, 267; IX., pp. 83, 114, 252, 293, 294, 339; X., pp. 29, 113.

[25] *Ibid.*, VIII., p. 117.

[26] *Ibid.*, V., 418, Shellito; IX., p. 322, Martin.

[27] *Ibid.*, X., pp. 222–25, Woodward.

[28] *Ibid.*, III., 83.

[29] *Ibid.*, III., p. 90, Brown.

made the distinction between the races.[30] It was a matter for consideration "whether negroes are a different species from the white man, and only a link in the chain of being."[31] One member declared that "he would maintain on that floor and in the world to come, if he was permitted, that the negroes are a degraded race, and the whites entitled to superiority over them."[32] Another quoted the slave-holder's favorite text, the story of Noah's curse of Canaan, declared that the negroes were a race for whom the Lord had provided no redemption, and asserted that "the Supreme Being who has created us all had made some bond and some free men, and he had declared that some should be the servant of the servants to the end of time."[33]

Negroes themselves did not desire to vote, for they knew that the prejudices of white people were such that the elective franchise would not benefit the blacks. The attempt to go to the polls would be attended with bloodshed and even loss of life.[34] A race war would be inevitable.[35] "They could not be placed on an equality in political and social rights, with the white citizens. No white citizen would permit a negro to educate his children, or to marry into his family."[36] In Philadelphia, where there were several thousand of them," said Mr. Brown, "the signal for them to attend and give their votes would be the signal for their destruction. . . . In twenty-four hours . . . not a negro house in the city or county would be left standing. . . . It was the duty of legislators to consult the public feeling and not do violence to it by any of their acts."[37] Mr. Sturdevant said: "Injury, annihilation to the blacks would be the result of making him the equal at the ballot-box with the white, but you can never force the citizens of this commonwealth to believe or practice it."[38] Mr. Sterigere quoted the words of Jefferson: "Deep rooted prejudices enter-

[30] *Ibid.*, X., p. 85, Sterigere.
[31] *Ibid.*, IX., p. 364.
[32] *Ibid.*, IX., p. 335, Sturdevant.
[33] *Ibid.*, IX., pp. 386, 387, M'Cahen.
[34] *Ibid.*, IX., p. 380, M'Cahen.
[35] *Ibid.*, IX., p. 321, Martin.
[36] *Ibid.*, V., 414, M'Cahen.
[37] *Ibid.*, IX., 393.
[38] *Ibid.*, IX., p. 328.

tained by the whites, ten thousand recollections by the blacks of injuries they have sustained; the real distinctions which nature hath made; and many other circumstances will divide us into parties, and produce convulsions which will probably never end but in the extermination of one or the other race!"[39] It would, therefore, be cruel and wrong to "excite hopes and hold out the delusive shadows of privileges to black men which must end in disappointment."[40] It were far better that, as in the South, they should be taught from cradle to grave that they were inferior to the white man and were trained not to feel their degradation, than that they should be deluded by an empty, formal equality which would "Keep the word of promise to the ear

And break it to the hope.' "[41]

The men who applied the Declaration of Independence to the negroes were merely declaiming, and did not themselves really wish to make negroes equal with white men.[42] The philanthropic sentiment about men of color was the result of misguided zeal. Men of wealth who contributed to the anti-slavery cause might better lend a helping hand to thousands of white people who were actuated by a laudable ambition never felt by negroes.[43] "The state of the white population is growing worse. We are fast treading on the heels of Europe." The people of Pennsylvania had nothing to do with bringing negroes from Africa and were clear of sin. No one imagined that the blacks were not better situated than in their aboriginal home. This agitation against slavery originated in England among philanthropists who overlooked the squalor of the white people around them and wasted their funds and their sentiment on distant Africans. "A great man who had nothing to do but to hunt out something to build a name upon set it on foot. A species of fanaticism sometimes takes possession of good men, and they are carried away by a belief, that a great deal more is yet to be done than ever has been done."[44] The only object in trying

[39] *Ibid.*, X., p. 85.
[40] *Ibid.*, I., 477, Martin.
[41] *Ibid.*, III., 91, Brown.
[42] *Ibid.*, I., p. 477; IX., p. 322, Martin.
[43] *Ibid.*, IX., p. 322, Martin.
[44] *Ibid.*, III., p. 84, Martin.

to secure negro suffrage was to degrade white laborers.[45] "The elevation of the black man is the degradation of the white man."[46]

The opponents of color discrimination of course argued that taxation without representation was unjust. There were rich colored men in Bucks county, one worth nearly a hundred thousand: the elective franchise ought not to be withheld from one who had so deep a stake in society.[47] Van Buren's speech in the New York convention of 1821 was quoted,[48] and other references were made to the well-worn phrase;[49] but the argument was not elaborated. It was remembered that negroes had fought bravely in the Revolution,[50] and extracts were read from General Jackson's proclamations at the time of the battle of New Orleans, one of which called on negroes to fight "as sons of freedom," the other of which praised their valorous qualities, and neither of which, said the speaker, was a negro memorial.[51] Disfranchisement of the blacks would be irreconcilable with the Declaration of Independence.[52] "In the day of retribution there will be no inquiries made as to whether we had white or black skins, so that we have clear hearts; therefore let us do justice to all, and oppress none," said Mr. Earle, and he quoted the golden rule and the famous verse from Acts which declares that God "hath made of one blood all nations of men for to dwell on all the face of the earth."[53] Where would negroes obtain justice if not in Pennsylvania? Indeed there might be some violence done them if they attempted to vote; "but if injustice will be done, let it be done against the law, and not with the law."[54] Rights cannot be surrendered merely to avoid provoking the ire of a mob.[55] Even in the South, white and black sit at the same communion table, because it is real-

[45] *Ibid.*, I., 477., Martin.
[46] *Ibid.*, IX., 321, Martin.
[47] *Ibid.*, I., p. 576, Jenks
[48] *Ibid.*, IX., 376, Reigart.
[49] *Ibid.*, IX., p. 322, Dickey; X., p. 118, Jenks.
[50] *Ibid.*, X., p. 92, Forward.
[51] *Ibid.*, X., p. 49, Darlington.
[52] *Ibid.*, IX., p. 355, Earle, p. 355, Biddle.
[53] *Ibid.*, IX., p. 336; X., 56, Darlington.
[54] *Ibid.*, IX., p. 333, McClay.
[55] *Ibid.*, X., p. 6–7, Merril.

ized that all are equal in the Creator's sight.[56] This doctrine that black men were incapable of self government was a dangerous one to put forth in this country for its application might be extended to some white men.[57] There could be political equality without social equality. Giving blacks the elective franchise would make them contented and perhaps useful as citizens, but depriving them of it would cause discontent and hatred to prevail among them.[58] The idea that they were naturally inferior was mistaken. Mr. Earle referred to Alexander H. Everett, a democratic candidate for Congress at the late elections in Massachusetts who proved from Herodotus that the ancient Egyptians, the fathers of the sciences and arts, were men of black skins, crisped hair, and Ethopian extraction, and who called the prevailing motion that these characteristics were signs of inferiority an absurd and barbarous prejudice which the light of knowledge would eventually dissipate.[59] He also referred to Daniel O'Connell who said that "the worst of all aristocracies is that which prevails in America—an aristocracy which had been aptly denominated that of the human skin."[60] This sentiment, in the very spirit of Charles Sumner, when thirty years later he thundered his denunciation of the aristocracy of color, was incorporated in over a score of petitions against disfranchisement, which prayed "that no change in the existing constitution may be made having a tendency to create distinctions in the rights and privileges of citizens of this commonwealth founded merely upon their complexion."[61]

The argument that the right of suffrage would induce free negroes to come into the state was met by denial.[62] They did not increase as fast as whites and their death rate was higher. They might be prevented from immigrating too rapidly by requiring from three to seven years residence before they could vote.[63] Only one member referred to the oppressive restrictions

[56] *Ibid.*, X., p. 12, Merril.
[57] *Ibid.*, X., p. 13.
[58] *Ibid.*, X., p. 10, Forward.
[59] *Ibid.*, IX., p. 344.
[60] *Ibid.*, IX., p. 343.
[61] *Ibid.*, VII., p. 295; VIII., pp. 113, 117, 161, 193; IX., pp. 41, 114, 115, 155, 293, 339; XI., p. 3.
[62] *Ibid.*, X., p. 66, Dickey.
[63] *Ibid.*, X., p. 11, Forward.

in other states as an argument for giving the blacks an asylum in Pennsylvania. He thought it "the hardest thing in the world to deny" them "a resting place for the soles of their feet." But even he said: "If there is any prospect that the chains of the slave will be riveted faster upon him, in consequence of the efforts which are made for his liberation, then it is obvious that we need entertain no great fear that the State of Pennsylvania will be inundated—with the black population from other States."[64] Only one member was bold enough or inclined to ask why people should not be permitted to send a negro to the legislature if they chose.[65] This evidence, if it were needed, could be adduced to show the existence of a deep-seated prejudice against the negroes. Indeed one of their friends admitted that they were not a desirable class of population, but argued that, having been brought from Africa through violence and fraud, they had peculiar claims to being treated with justice and humanity.[66] Members expressed the hope and belief that prejudice against the negro, which it was hinted, did not prevail in European countries,[67] had been mitigated and would die away in America;[68] but its existence at the time was admitted as a fact. Mr. Maclay declared that all the arguments against the negro could be summed up by an old rhyme:

> "I do not like you, Doctor Fell!
> The reason why I cannot tell:
> But this I do know passing well—
> I do not like you, Doctor Fell."[69]

On the side of disfranchisement, it was argued that it was no injustice to deny black men the suffrage as long as women did not vote;[70] and that if male negroes were admitted, by the same reasoning, female negroes ought to be admitted to the elective franchise.[71] It was urged that negroes were neither

[64] *Ibid.*, V., pp. 456, 457, Earle.
[65] *Ibid.*, X., p. 11, Forward.
[66] *Ibid.*, IX., p. 332, Maclay.
[67] *Ibid.*, X., p. 12, Forward.
[68] *Ibid.*, IX., pp. 351, 352, Meredith, p. 354, Biddle.
[69] *Ibid.*, IX., p. 258.
[70] *Ibid.*, IX., p. 379, M'Cahen.
[71] *Ibid.*, V., p. 418, M'Cahen.

freemen nor citizens within the meaning of the Constitution, and really had no right to vote.[72] In the debate on printing a negro memorial, Mr. Sterigere said they were not citizens and had no more right to be heard than the subjects of the monarchs of England and France.[73] The constitution and the laws recognized in them a distinct people. They were excluded from the militia, from the polls, from the jury box, and from office. A man might be a freeman and yet not a citizen; negroes could exercise none of the rights of citizenship.[74] Only white persons could be naturalized under the federal laws. The supreme courts of Connecticut and Kentucky had decided that negroes were not citizens, and Judge Kent had said: "They are essentially a degraded caste, of inferior rank and condition in society."[75] The disabilities laid on them in early days showed that they were not included by the framers of the state constitution among those "born equally free and independent." They could be among those "entitled to all privileges and immunities of the citizens in the several states" unless it should be assumed that this provision of the federal constitution was being systematically violated. The fact that all the Southern states forbade free negroes to carry firearms proved that they are not a part of "the people", whose right to keep and bear arms was never to be denied.[76]

On the other hand, Mr. Maclay declared that a provision for excluding free negroes from the state would violate the second section of the fourth article of the United States constitution; that there was no evidence that the framers of the Pennsylvania constitution of 1790 meant white freemen when they used the word "freemen", and that the preamble of the law passed in 1780 to provide for the gradual emancipation of slaves showed that negroes were made freemen and therefore citizens.[77] Others tried to justify negro suffrage by the theory of social compact. "By suffrage," said Mr. Rogers, "I apprehend is meant, in its most enlarged sense, that expression of will by which man

[72] *Ibid.*, V., p. 417, Cummins.
[73] *Ibid.*, IX., p. 221.
[74] *Ibid.*, V., p. 422.
[75] *Ibid.*, IX., pp. 360–364, Sterigere.
[76] *Ibid.*, IX., pp. 325, 326, Sturdevant.
[77] *Ibid.*, V., pp. 421, 451.

signifies his disposition to enter into the social compact—and to institute government. It is by that also he manifests his assent or dissent to the measures of that government. It is evidently, then, a natural and inherent right, and not at any time surrendered; for, by the exercise of it alone, can man pass from a state of nature into the social compact."[78] Another opinion is recorded: "If society, when forming itself into the social state, had conferred upon any body of men a right, they specified the grounds upon which they hold it. If, then, under the social compact, originally adopted, men had become members of that society for life, and had brought up their children under it, he held it to be politically impossible for that social body, in or out of the convention, to disfranchise those men."[79] Another, though friendly to the negroes, dissented from this Rousseauism: "The question cannot be placed on the ground of natural rights. We have no natural rights. We are making a rule of government, and a government founded on the laws of nature, would be a return to savage life, where every man could do as he pleased making the law for himself."[80] One of the opponents of negro suffrage put a second edge on the principle of the consent of the governed: "The negroes never assented, and their presence here, since it was procured by fraud and force, could not be construed into an adoption of the country, or an acquiescence in its form of government. They were brought here to be slaves, and not freemen; and they were slaves and not freemen when the principles of government were agreed on, and when its foundations were laid." Having never "consented" to the government or been admitted into the social compact, they were in the position of non-naturalized foreigners.[81] It was not explained whose subjects they were. In this view, free colored people were native aliens, men without a country. A similar idea runs through Chief-Justice Gibson's opinion. He describes the black laws of the 18th century and asks: "If freemen, in a political sense, were subject of these cruel and degrading oppressions, what must

[78] *Ibid.*, I., p. 474.
[79] *Ibid.*, X., p. 53, Scott; X., p. 68, Chauncy.
[80] *Ibid.*, X., p. 5, Merril.
[81] *Ibid.*, X., pp. 19, 20, Woodward.

have been the lot of their brethren in bondage?", and uses these laws as evidence, "that no colored race was party to our social compact." The word "freedom" signifies more than exemption from involuntary service. "The freedom of a municipal corporation, or body politic, implies fellowship and participation of corporate rights; But an inhabitant of an incorporated place who is neither servant nor slave, though bound by its laws may be no freeman in respect of its government." "The word freeman was applied in a peculiar sense to the political compact of our ancestors, resting like a corporation on a charter from the crown."[82]

The most important phase of these debates is still to be reviewed. Much fear was expressed that the discussion of the question of negro suffrage would cause great excitement and endanger the safety of the union. Many members desired to leave the question for the supreme court to decide and wished to dispense with the reading or printing of memorials in favor of the colored people.[83] Discussion of it, said Mr. Agnew, would bring up the whole matter of slavery concerning which "excitement of a frightful kind prevails throughout many of the states." Negro suffrage "was a delicate question and should be spoken of with delicacy. We should agitate it as little as possible."[84] Charges were made that the abolitionists were responsible for pressing the right of negroes to vote among the people, in the convention and in the courts of justice, and that the agitation of this question was an abolitionist scheme to bring about a collision between the North and the South. During the early part of the discussion, in June 1837, a member who opposed the color discrimination said it might if adopted endanger the amended constitution before the people because abolitionists would vote against it.[85] A member on the other side was astounded: "If that be their object the sooner the people of Pennsylvania know it the better. He had thought it was their rights as human beings the abolitionists had been endeavoring to estab-

[82] *Hobbs et al V. Fogg*, p. 6, *Watts*, p. 553 .

[83] *Ibid.*, III., p. 87, Darlington, p. 91, Brown; V., pp., 415, 419; IX., pp. 220-232.

[84] *Ibid.*, IX., 367.

[85] *Ibid.*, V., p. 423; Cummins, IX., pp 321, 322, Martin, p. 327, Sturdevant: X., p. 21, Woodward.

lish, not their rights to a political equality."[86] To permit negroes to vote, to make it possible that a black should be sent to Congress, would be a violation of covenant engagements with the South, an offence and a gross insult to the slave states, who would never have joined the Union had they anticipated that free states would make voters of their fugitive slaves.[87]

In reply, Mr. Earle said that those who argued that granting negroes the elective franchise would cause the dissolution of the Union were "paying but a poor compliment to the nullifiers of the South, the great sticklers for the right of each state to regulate its own concerns."[88] Several members who denied that they were abolitionists, complained bitterly that the Southern States had suppressed the right of petition in Congress and were trying to put down free discussion of the slavery question in the North.[89] "When the sacred rights of petition, and the freedom of discussion and the liberty of the press are decried by the free representatives of the citizens of free states," said Mr. Dickey, "then it is indeed time to calculate the value of the Union." One member declared that arguments against negro suffrage were arguments for slavery.[90] Another would refuse to appease the wrath of the South by doing injustice to a part of the inhabitants of Pennsylvania, and expressed indignation at the opinions of Governor McDuffy of South Carolina, that "slavery is a necessary ingredient of an unmixed republic," and the conclusions of a writer in the Charleston Mercury who "trusted he had proved that slavery was approved by God and the patriarchs, and Christ and the Apostles, and that to say it was sinful to hold slaves was impious", and at the attempt of Southern States to secure penal legislation against those who in the North, declared their belief "that slavery is a sin in the sight of God and man."[91] The speech of Mr. Reigart of Lancaster county, on January 18, 1838, deserves special attention. He denied that he was an abolitionist or that he was "among those

[86] *Ibid.*, III., p. 89, Brown.
[87] *Ibid.*, V., p. 418, Shellito; IX., p. 367, Sterigere, p. 353, Meredith; X., p. 22, Woodward.
[88] *Ibid.*, X., p. 39.
[89] *Ibid.*, X., pp 41, 42, Darlington.
[90] *Ibid.*, X., p. 66, Decker, p. 121, Purviance.
[91] *Ibid.*, IX., p. 353, Meredith.

who are disposed to minister to the morbid sensibilities of the southern politicians.'' He denounced the aggressiveness of the slave power. He contrasted the care taken to preserve neutrality on the Canadian border with the systematic violation of neutrality in Texas. He referred to the right of petition, which had been overthrown with the aid of Northern votes: ''These recreant degenerate sons of patriotic sires . . . lent themselves, passive instruments, to the arrogant, imprudent, reckless pretensions of the hot bloods of the South, for the purpose of overthrowing this great principle of liberty.'' The Southern states were memoralizing Northern legislatures to prevent their citizens from writing, printing, nay almost from thinking, on the subject of domestic slavery.'' ''These aggressions men are called upon not only to permit but to applaud. We are told that southern gentlemen are high-born, high-minded, honorable and just. . . . The North has suffered much and great injustice from the South, and the time has come when northern men should speak plainly 'without reservation, equivocation or mental reservation.' '' His attitude was similar to that of Mr. Jay in the New York Convention of 1821,[92] and his argument also was similar. ''My principal objection . . . is that it will be viewed in the South as the triumph of Southern principles in a Northern State.'' In conclusion he said: ''The vote we are about to give will excite great surprise everywhere. In the South, it will be celebrated almost with bonfire, illumination, feasting, and every demonstration of joy. In it they will see the triumph of Southern principles in good old staid Pennsylvania; and we shall be obliged to witness the galling spectacle of the triumph of the dark spirit of slavery in our native state.''[93]

The vote, January 20, on Mr. Martin's motion to insert the word ''white'' resulted, yeas 77, nays 45.[94] Not all of the minority were in favor of permitting negroes to vote on an equality with whites. There were several members who realized the incapacity of the negroes and the prejudice against them, who were of liberal sentiments, and who wished to make pro-

[92] *Ante*, pp. 31–32.
[93] *Ibid.*, IX., pp. 370-377.
[94] *Ibid.*, X., p. 106.

vision that negroes might vote under certain restrictions, or at a future time, when negroes should have made greater progress and the feeling of white people toward them should have become more favorable.[95] Accordingly, as soon as the disfranchising clause was carried, Mr. Scott, of Philadelphia, moved to add a proviso that, at any time after 1860, the legislature might extend the right of suffrage to colored persons on whatever conditions should seem expedient; but this motion was defeated by a vote of 73 to 36.[96] On January 22, Mr. Dunlop offered an amendment providing that negroes, who had resided three years in the State and owned property of the value of $200 above all incumbrances, should have a right to vote, and that those not qualified to vote under this provision should be exempt from taxation.[97] This amendment was defended on the principle of "taxation and representation,"[98] and the speeches and vote of Martin Van Buren in the New York convention of 1821 were cited in its favor. "The vote of Mr. Van Buren had been published in all the papers of the South; but . . . the Southern people did not entertain such narrow prejudices against him, and were not so illiberal as to oppose him on that account. . . . The fact was, that the Southern people admitted that the present state of things in relation to slavery was wrong, and they only waited a propitious period to abrogate the evil."[99] These were the words of one of the most earnest and consistent opponents of the color discrimination. They indicate that much of the opposition to disfranchisement was based on broad humanitarian and democratic principles, and that the attitude represented by Reigart's fierce denunciations of the South was just beginning to become important. The vote on Dunlop's amendment resulted in its defeat by 86 to 36, and when it was offered again with $250 instead of $200 and a proviso that negroes should not be permitted to hold office it was again rejected, this time by a vote of 84 to 40.[100] Another amendment, offered

[95] *Ibid.*, IX., pp. 221, 350, 351, 352, Meredith; IX., p. 391, Brown; X., p. 56, Scott.
[96] *Ibid.*, X., p. 107.
[97] *Ibid.*, X., p. 11
[98] *Ibid.*, X., p. 118 Jenks.
[99] *Ibid.*, X., pp. 124, 125, Earle.
[100] *Ibid.*, X., p. 125.

by Mr. Merrill, extending the suffrage to free men of color who could read and write was defeated by the still more decisive vote of 91 to 26.[1] An attempt was also made to secure a clause, like that in the Connecticut Constitution of 1818, providing that all persons entitled to vote before the ratification of the new constitution should continue to have the right of suffrage; but the motion was rejected by 73 to 42.[2] Then the report of the committee as amended by the insertion of the word "white" was adopted by a vote of 88 to 33.[3]

There seems to have been no tangible principle as far as the geographical distribution of the votes was concerned. One might expect that in the eastern part of the state where free negroes were most numerous opposition to negro suffrage would have been most general, but such was not the case. The convention was composed of senatorial and representative delegates. Of seven representative delegates from Philadelphia city, where the number of blacks was largest, four voted against the disfranchising amendment. One out of eight from Philadelphia county, two of three from Bucks county, four of six from Lancaster, one of two from Adams, and all four from Chester also voted on the side of the black man. Perhaps the influence of the Quakers in eastern Pennsylvania had mitigated the race antipathy of the whites. Comparing the vote with that in the New York convention of 1821, it is obvious that Pennsylvania was much less liberal toward the negro than was New York seventeen years before. Indeed there was a larger proportionate minority on the side of the colored man in both Tennessee and North Carolina. One member, who, had he voted, would have sided with the minority should not be forgotten. Thaddeus Stevens, a native of Vermont, and a graduate of Dartmouth College, had come down into Pennsylvania and established himself as a lawyer in York county near the border of Maryland. Here he observed the workings of the fugitive slave law, saw one of the worst aspects of negro servitude, helped defend colored men claimed as fugitives, and developed an intense hatred of

[1] *Ibid.*, X., pp. 126, 130.
[2] *Ibid.*, X., p. 131.
[3] *Ibid.*, X., p. 134.

slavery.[4] He took an active part in the debates of the convention, but strange to say never spoke or voted on the negro suffrage question. When the constitution was finally adopted however, he refused to sign it because he could not sanction any discrimination on account of race or color.[5]

Pennsylvania was the last state in which, after negroes had once voted under a semblance of legality, a color discrimination was adopted excluding them from the electorate. Deleware had disfranchised them in 1792, Kentucky in 1799, Maryland in 1801, New Jersey in 1807, Connecticut in 1818, Tennessee in 1834, North Carolina in 1835, and Pennsylvania in 1838. New York had imposed severe restrictions in 1821, and the Federal Government passed the last act permitting negroes to vote in the territories in 1809 in organizing the Territory of Illinois. In Maryland, New York, New Jersey, Connecticut and Delaware, legislative or judicial action had been taken, before or at the time the disfranchising measures were adopted, that impliedly or expressly recognized that colored persons of some descriptions had had a right to vote. In Tennessee and North Carolina, they voted in such great numbers that the legality of negro suffrage had to be admitted, although it was doubtful how their right to vote was first acquired. In Pennsylvania the right was more doubtful still, and the supreme court of that state, after the privilege had been totally abrogated, decided that it had never existed. In none of the states, probably, was negro voting uniform; in many localities they did not vote at all, and where they did vote, many never came to the polls. The action to disfranchise them, at least in some instances, was taken because the number of them who voted was becoming considerable, even their friends practically admitting that it would not do to let them have any real influence in elections. Many of those who opposed disfranchisement were men of broad views and liberal sentiments, were influenced by the Revolutionary ideals of liberty and equality and by the principles of the first champions of the anti-slavery cause, and were often men of great intellectual ability, such as Governor Livingston, Chancellor

[4] McCall, S. W., *Thaddeus Stevens, Am. Statesmen Series,* pp. 20, 21, 26.
[5] *Ibid.,* p. 48.

Kent, Rufus King, Martin Van Buren and Judge Gaston. A new element of opposition to restrictions on the right of colored men to the elective franchise is disclosed in the speeches of Jay in the New York convention of 1821 and of Reigart in the Pennsylvania convention of 1837 and 1838, and in the charges that abolitionists were championing the side of the negro. Henceforward the question of negro suffrage was destined to become increasingly involved with the question of slavery and with the sectional controversy between the North and the South.

CHAPTER III

SUFFRAGE AND ANTI-SLAVERY, 1838 TO 1846

The question of negro suffrage had several times, up to 1838, been a matter of considerable popular concern. The discussions on the subject were, however, more or less isolated: they were not results or part of an agitation continued through many years. The question was long to remain a minor one and did not become a leading issue till after the Civil War; but it became in some degree a party question. Although negro suffrage was not incorporated as a plank in party platforms and although the votes for and against it were not confined by party lines, the agitation in favor of it, as the subsequent account will show, was to be in most instances more or less definitely connected with the abolitionist and anti-slavery movements and with the Liberty, Free Soil and Republican parties. The records, however, are not as continuous as the agitation probably was and hence there will be very appreciable gaps in the narrative.

New York, Rhode Island, New Jersey

In the autumn of 1838, some of the anti-slavery men of the eighth senatorial district of New York questioned Addison Gardiner, afterward Lieutenant-Governor, but then Democratic candidate for state senator, concerning his opinions on various negro subjects, among others the question of extending the suffrage to colored men on an equality with whites. In a letter dated, Rochester, October 16, 1838, and addressed to eight members of the Anti-Slavery Society of Genessee County, he replied, in effect, that negroes were not capable of being good voters, but that he did not "deem their numbers or influence in this State sufficient to justify us in withholding from them the right of suffrage. There should be no exception to the doctrine of equal

rights without a strong necessity, and that necessity I do not conceive to exist in the present case."[1] When Thomas W. Door was trying to secure extension of the elective franchise in Rhode Island in 1841, he took the ground that the suffrage was not a privilege but an inalienable natural right.[2] Yet the framers of the Dorr Constitution, adopted November 18, 1841, used the words, "Every white male citizen," to describe electors, at the same time exempting colored people from taxation.[3] This race discrimination may have been due to the influence of foreigners in the State; for the Constitution that actually went into force, adopted in November 1842, extended the suffrage to native citizens who paid one dollar in taxes or had done militia serice, but only to such foreign born citizens as owned one hundred and thirty-four dollars worth of real estate.[4] The New Jersey constitutional convention of 1844 made the color distinction adopted by statute in 1807 a part of the constitution itself. None of the speeches are reported, and therefore, although the suffrage was discussed, it is impossible to tell whether anything was said concerning the negroes. The subject was apparently brought up but once, and then by a petition "from sundry colored inhabitants, praying to be admitted to the right of suffrage."[5] Another petition was presented asking that the elective franchise be extended to women.[6] These somewhat unrelated occurances lead up to the consideration of the New York Convention of 1846.

New York, 1846

The discriminating clause adopted in 1821 had probably disfranchised all but a few negroes. Some of them must have accumulated more or less property during the next generation, and perhaps the requirement of a freehold estate was not strictly enforced. In 1845, there were about one thousand colored voters, while twice that many negroes were taxed.[7] The anti-slav-

[1] New York *Weekly Tribune*, October 26, 1846.
[2] Richman, I. B., *Rhode Island*, p. 290.
[3] Green, G. W., *A Short History of Rhode Island*, p. 320.
[4] *Ibid.*, pp. 306, 307.
[5] *Journal of Proceedings of the New Jersey Convention of 1844*, pp. 49–50, 63
[6] *Ibid.*, p. 102.
[7] *New York Convention Report*, 1846, p. 790, Dana.

ery discussions current at the time made it inevitable that the question should arise in the convention: shall the negro's right to vote be further extended and made equal with the white man's, or shall it be totally abrogated? There was undoubtedly more or less agitation of the suffrage question during the election of delegates to the convention. A member from St. Lawrence said it was the only issue in that county, that he had been interrogated, and had announced his opposition to negro suffrage.[8] On June 13, 1846, the constitutional convention adopted a resolution ordering the committee on elective franchise to inquire into the expediency of abolishing the property qualification for negroes.[9] On the 15th of July, the committee reported back an article which altogether deprived them of the elective franchise and confined it to "white male citizens." In explanation, it was said later that all property qualifications were anti-republican, and that negroes ought to be excluded from the electorate entirely on account of their race or admitted on an equality with whites for the sake of their humanity.[10] In support of disfranchisement, many of the arguments of previous discussions were again employed. Negroes were of an inferior race. They were under a curse from which there was no recovery. They were aliens by the fiat of the Almighty, separated from the whites not by petty distinction which time could obliterate, but by the broad and permanent distinction of race.[11] Political equality would mean social equality; the negroes themselves had announced that they desired equal privileges in churches and schools and with respect to holding office, and that it was God's design to annihilate caste by bringing the races together in this country.[12] Even if the popular prejudice were mistaken or were transient, it should be taken into account: "we had got to take notice of prejudices, so far as they would influence the true organization of society."[13] Moreover the feeling against negroes was founded in reason, for they furnished a much larger proportion than white people of the criminals in the prisons of the

[8] *Ibid.*, p. 777, Russel.
[9] *Ibid.*, p. 68.
[10] *Ibid.*, p. 783, Kennedy, p. 790, Burr.
[11] *Ibid.*, p. 786, Hunt, p. 789, Perkins, p. 791, Harrison.
[12] *Ibid.*, p. 785, Kennedy, p. 788, Stow.
[13] *Ibid.*, pp. 787, 788, Stow.

state, and were in general more degraded than the same class in the South.[14] To extend suffrage to free colored persons would encourage migration into the state. The stringent law of Ohio, which forbade free blacks to reside within the commonwealth, might be adopted by Kentucky. New York would then become a reservoir into which other states could pour this undesirable class, and an avalanche of men raised in bondage would tell the people of New York how to conduct a free government. The result would be to lower the position of the working people by bringing them into contact with a degraded race.[15] Suffrage was a privilege, not a right, and black men ought to claim it as an inalienable natural right no more than women and children. Negroes were not *bona fide* citizens. The whites had formed themselves, or were formed by the operation of circumstances and the law of necessity, into a distinct nation, and they had a right to exclude negroes if they desired. Negroes also had a right to migrate from the country and set a government of their own. Their destiny, far from ignoble, was to return to Africa, and to teach the dusky, naked savages and idolators there, the arts and learning of a superior race.[16] One member, a native of Baltimore, Maryland, agreed with Thomas Jefferson that negroes were capable of much improvement. He denied, however, that suffrage would benefit them, and he made a significant charge against the abolitionists, who extended their sympathies to the extreme link of humanity because it was the extreme link of humanity. In Maryland, the anti-slavery cause was making rapid progress, he said, until Northern fanatics interfered: "On that day, anti-slavery was left dead upon the field, and the loosened fetters of the slave were replaced with double rivets.—The destruction of active efforts of anti-slavery in the South, is the only victory I have ever known abolitionism to gain."[17]

The champions of equal rights denied that slaveholders had ever been on the point of manumitting their slaves.[18] Anyone, said one of them, who voted to deprive black men of their poli-

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[14] *Ibid.*, pp. 784, 785, Kennedy.
[15] *Ibid*, p. 788, Stow.
[16] *Ibid.*, p. 777, Russel, p. 783, Kennedy, pp. 186, 787; Stow.
[17] *Ibid.*, pp 784, 785, Kennedy.
[18] *Ibid.*, p. 786, A. W. Young.

tical rights was a friend of slavery.[19] Negroes were not naturally inferior to whites. Color was merely an incident of latitude. De Witt Clinton had favored amalgamation to improve the species. Africans were fully as intelligent as immigrants from Europe, and it did not become a man of sense, to infer that, because of a black skin and curly hair, the negroes were not endowed with minds equal to those of any other race or nation.[20] Over and over again, members urged that they were men, and, according to the great Declaration, entitled to equal rights, and not justly to be governed without their own consent.[21] Although it was said that negroes could legally sit on juries, and although an instance was given of a negro who served as juryman in Buffalo, it was admitted that a great prejudice against them prevailed. In New York, they were not even permitted to drive a cart. They were so greatly oppressed and degraded as to make it a wonder that criminals among them were not much more numerous.[22] White women and children were protected by the men; but no one would stand up for the colored race, who therefore needed the suffrage as a means of protection.[23] The word "white" was too indefinite and might cause hardship.[24] There was no danger that negroes would become too numerous, for they were already being whitened out of existence by amalgamation,[25] and the experience of New England showed that there was no danger of an influx from other states.[26]

The votes in the convention show little change of sentiment since 1821. On striking out the word "white" and permitting negroes to vote under the same restrictions as other citizens, there were 37 ayes and 63 noes.[27] There were 42 ayes and 50 noes on a motion to reduce the property qualification from $250 to $100.[28] A motion to retain qualified suffrage provision of the

[19] *Ibid.*, p. 790, Simmons
[20] *Ibid.*, p. 786, Young, Waterbury, p. 789, Simmons, p. 820, Bruce.
[21] *Ibid.*, p. 776, Bruce and others, p. 785.
[22] *Ibid.*, p. 777, Strong, p. 785, Dana, p. 786, Rhoades.
[23] *Ibid.*, p. 786, Waterbury.
[24] *Ibid.*, p. 776, Burr.
[25] *Ibid.*, p. 776, Burr.
[26] *Ibid.*, p. 788.
[27] *Ibid.*, p. 788.
[28] *Ibid.*, p. 790.

old constitution was adopted by 63 to 32,[29] and a subsequent proposition to remove all restrictions on the right of colored persons to vote was defeated by 75 to 29.[30] An attempt to introduce an educational qualification was laughed at,[31] but it was decided by a vote of 73 to 26 on October 2, 1846, to submit to the people, at the fall election, the question of equal suffrage to colored persons.[32]

This question was directly at issue in the convention only on the motion to remove all restrictions that did not apply equally to whites, which received 29 votes in its favor. Fourteen of these were cast by natives of New England states, of whom there were forty in a convention of one hundred and twenty-six members. The New Englanders therefore comprised a little less than one-third of the convention but gave about one half the votes for negro suffrage. Most of the votes on that side came from the North and especially from the West. A decided change from the situation in 1821, when no geographical grouping of votes could be noticed, is also shown by the fact that the city of New York, then about equally divided, now cast fifteen of its sixteen votes against extension of negro privileges.

The vote of New York City may have been due to the influence of foreigners in politics. Or, perhaps it was due to the fervor of the Democrats, who controlled the convention, and whom ardent anti-slavery men held responsible for the defeat of negro suffrage.[33] The *Tribune* complained, in an editorial headed, "The Elective Franchise—Dough Face Stock Rising," that the negro question had been postponed and was later "to be crowded through in the most hasty manner, and so as to serve the peculiar interests of the South." A member of the committee that reported the first disfranchising article had been made a revenue official at New York. "Had he left out the word white," asks the *Tribune*, "would he have gotten that berth from a President who wars against Mexico to restore negro slavery where it had been abolished?"[34] This paper urged the friends of equal suf-

[29] *Ibid.*, p. 791.
[30] *Ibid.*, p. 820
[31] *Ibid.*, p. 820.
[32] *Ibid.*, p. 824.
[33] New York *Weekly Tribune*, October 10, 1846.
[34] *Ibid.*

frage to bring out the largest possible vote in its favor, exhorted "every true Republican, every just man....every man who reveres God and loves rightousness" to do his utmost "to render this instalment of justice to the long suffering children of Africa," ridiculed "the exaction of dirt as a requisite to constitute a man a voter," applied to the question of equal suffrage the test of the Declaration of Independence and decided that longer disfranchisement of colored men would be "an outrage and a shame."[35] After the election of November 3, the *Tribune* charged that in New York and Brooklyn, at many voting places, Tammany made it difficult or impossible to secure a ballot for the constitution or for equal suffrage.[36] The defeat of the proposition to abolish the property qualification for blacks and put them on an equality with whites was however too decisive to be questioned. The vote stood 224,336 to 85,406.[37] Several counties in the North and West gave majorities in favor of negro suffrage; Clinton, Franklin, Washington, Essex, Cattaraugus, Wyoming, Cortland, Oswego and Madison. The same counties gave heavy votes for Van Buren when he was Free Soil candidate for president in 1848,[38] but his total vote was larger by half than that in favor of the negro in 1846, as one would expect in view of the fact that the suffrage question brought out only about two-thirds of the normal vote of the State. That one fifth of the voters of this commonwealth, twenty years before the reconstruction period, should have been desirous of putting negroes on an equality with white men at the polls, is evidently of no small significance in accounting for the triumph of radical policies in dealing with the negro problem in the South. Nor was New York the only eastern state to deal with the question. The next year, 1847, the anti-slavery agitators in Connecticut evidently secured a legislative enactment submitting the negro suffrage issue to popular vote, although the legislature refused to endorse the striking out of the word "white" from the constitution.[39] Connecticut was to give Van Buren five thousand

[35] *Ibid.*, October 10, 24, 31.

[36] *Ibid.*, November 14.

[37] *Tribune Almanac*, 1870, p. 53; Appleton's *Annual Cyclopedia*, 1869, p. 490; also Niles, *Register*, LXXI., p. 198, Nov. 28, 1846.

[38] *Whig Almanac*, 1849, p. 54.

[39] Niles' *Register*, LXXII., p. 227, June 12, 1847.

votes in a total of sixty-two thousand in 1848,[40] but in 1847, on the negro suffrage question, only about a third of the vote of the state was called out, and the proposed extension of the franchise was defeated by 19,495 to 5,616.[41]

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[40] *Whig Almanac*, 1849., p. 64.

[41] Niles' *Register*, LXXII, p. 148, Nov. 6, 1847; Appleton's *Annual Cyclopaedia*, 1869, p. 205.

CHAPTER IV

THE STRUGGLE IN THE NORTHWEST, 1844–1857

The most notable efforts, however, to secure negro suffrage during the forties and fifties were made in the Northwest. In all the states carved out of the Northwest Territory and in Iowa and Minnesota, the question was to be agitated at various times before the outbreak of the Civil War.

The first constitutional convention of Iowa sat during the month of October 1844. Composed of 72 members, 19 natives of New York and New England, 26 natives of slave states, and the rest natives of the other states and foreign countries,[1] the great majority of the convention represented strong prejudices against black men. One member offered a resolution that petitions for negro suffrage should never be entertained by the Legislature, and complained that, under the Territorial government, the practice of sending negro petitions had become a nuisance.[2] Another member, a native of New York, representing the Dubuque district asserted that his constituents had instructed him to get a provision put in the constitution which would keep negroes out of the state, that their attitude was: "Slave or no negro," and that if their wishes were not carried out, Iowa would be overrun by broken down slaves from Missouri.[3] In accordance with these views, the convention adopted, by a vote of 32 to 21, a section which made it the duty of the legislature, as soon as practicable, to pass laws to prevent the settlement of colored people in the state.[4] Eleven days later, however, this

[1] Virginia 11, No. Carolina 6, Kentucky 8, Tennessee 1, New York 9, Vermont 6, Massachusetts 1, Connecticut 1, New Hampshire 1, Maine 1, Pennsylvania 13, Illinois 1, Indiana 1, Ohio 8, New Jersey 1, Scotland 1, Ireland 1, Germany 1; Shambaugh, B. F., Editor, *Fragment of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*, etc., pp. 408, 409, 410.

[2] *Ibid.*, p. 123.

[3] *Ibid.*, p. 155.

[4] *Ibid.*, p. 66.

provision was stricken out, by a vote of 35 to 32, because it was feared that it would run counter to the Federal constitution and that it would make more uncertain the admission of Iowa into the Union.[5]

Several petitions were presented which asked that persons of color be permitted to vote. One of them was referred to a committee which reported, without other discussion, against granting the request.[6] When another was presented, and motion to lay it on the table and to refer it to the committee on suffrage and citizenship had been lost, Mr. Hall, who made the adverse report on the former petition, moved that it be referred to a select committee of thirteen. One member opposed this motion because he feared to send abroad a report that would agitate the country and produce excitement and heated discussion. There were, however, several who, denying that they were abolitionists and admitting that the prayer of the petitioners ought not to be granted, argued that the Abolitionists, though small in numbers, had a right to be heard, that the citizens who favored negro suffrage were "as worthy as any others," and that their requests should be met with reason and with candor. Mr. Hall's motion, therefore, prevailed.[7] The arguments which the committee advanced in their report, show how much the political thinking of that time was charged with the principles of Jefferson, and how necessary it was considered to reconcile political action with the theories of the Declaration of Independence. "That all men are created equal, and are endowed by their Creator with equal unalienable rights, your committee are free to admit; that, so far as nature is concerned, those rights are as sacred to the black man as the white man, and should be so regarded. This, however, is a mere abstract proposition, and although strictly true, when applied to man in a state of nature, yet it becomes very much modified when man is considered in an artificial state in which government places him." Women and children are not permitted to vote. They "are denied what we abstractly term inalienable rights."—"The negro is surely no better than our wives and children." It is erroneous to confuse natural with

[5] *Ibid.*, pp. 155, 156.
[6] *Ibid.*, pp. 10, 11.
[7] *Ibid.*, pp. 26, 27, 28, 29.

artificial rights or to treat "the artificial institution of government as sacred and unalienable to man as the abstract rights of nature." Government is strictly conventional. "It is made for those who are to be benefited by it, and is not bound to unbar its doors and receive every vagrant who may take refuge in it.—In forming or maintaining a government, it is the privilege and duty of those who have or are about to associate together for that purpose, to modify and limit the rights of, or wholly exclude from the association, any and every species of persons who would endanger or lessen, or in the least impair the enjoyment of these rights.—It is the party to the compact that should complain, not the stranger.—True, these persons may be unfortunate, but the government is not unjust.—It is the *white* population who are about to form a government for themselves. No negro is represented in this convention, and no one proposes to become a member of the compact.—The negro not being a party to the government has no right to partake of its privileges." It would be dangerous to encourage their migration into the state: "The policy of other states would drive the whole black population of the Union upon us. The ballot box would fall into their hands.—There are strong reasons to induce the belief that the two races could not exist in the same government upon an equality without discord and violence that might eventuate in insurrection, bloodshed, and final extermination of one of the two races. No one can doubt that a degrading prostitution of moral feeling would ensue; a tendency to amalgamate the two races would be superinduced; a degraded and reckless population would follow; idleness crime and misery would come in their train; and government itself fall into anarchy or despotism."[8]

The constitution proposed in 1844 was rejected, and there was chosen another convention which met in 1846. In the fragmentary records of its proceedings now available, no reference to negro suffrage can be found. But it is improbable that any stronger sentiment favorable to negroes was exhibited than in 1844, for of the 32 members, ten Whigs and twenty-two Demo-

[8] *Iowa Constitutional Debates*, 1857, II., pp. 650, 651. The report was quoted in full by the minority of a committee of the convention of 1857. Shambaugh, B. F., *History of the Constitutions of Iowa*. pp. 213, 218.

erats, who composed the convention 15 were natives of slave States.[9] Iowa was yet to become the most radical on negro questions of all the states east of New England, but at this time there was probably less of liberal feeling toward colored people than in the neighboring Territory of Wisconsin.

Wisconsin, 1846 to 1848

The negro suffrage question had already been agitated there. In January 1844, six colored men petitioned the Legislature to extend the suffrage to all persons holding real estate, or one hundred dollars worth of taxable property. This petition was referred to a select committee of the council but no favorable action was taken. In the House, where similar petitions were presented, the judiciary committee reported that it was inexpedient to meddle with the question.[10] But it could not be kept down. The constitutional convention which met at Madison, October 5, 1846, received several petitions of the same nature, one of them asking for the removal of all distinctions on account of color, sex or nation.[11] The debates of that body show that previous discussion of the question had been considerable, that it was pressed chiefly by the abolitionists and their sympathizers, and that politicians had already clearly recognized that the people of the western part of the territory were almost unanimously opposed to negro voting and that many in the eastern counties were strongly in favor of it. During the legislative session in the first months of 1846, Marshall M. Strong of Waukesha had spoken vigorously in favor of impartial suffrage; the abolitionists of that county congratulated themselves on a new acquisition and passed resolutions commending his attitude; but in the constitutional convention he expressly repudiated his former views and argued on the other side.[12] It was charged

[9] Shambaugh, *Fragments*, etc., pp. 414, 415. Virginia 4, Kentucky 6, North Carolina 3, Alabama 1, Maryland 1, New York 3, Connecticut 4, Vermont 4, Pennsylvania 2, Ohio. 4.

[10] *Council Jour.*, Wis. Terr. Legis., 1844–45, p. 230; *House Jour.*, 1843–44, pp. 167, 326. Baker, F. E., *A Brief History of the Elective Franchise in Wisconsin.* State Hist. Soc. of Wis. *Proc.*, 1893, p. 4.

[11] *Journal of the Convention of 1846*, pp. 82, 237; *Madison Express*, Nov. 3, 1846.

[12] *Madison Express*, Oct. 27, 1846, notice of Strong's speech and editorial, "Crawfishing."

that others had likewise changed their position, that six, out of eleven Waukesha delegates, had voted against negro suffrage against the known will of a majority of their constituents.[13] One member maintained that every delegate was pledged on the question, and that a great many members from the eastern counties could not have been elected if it had not been known that they were in favor of negro suffrage.[14] Several members of the convention, in speaking on the side of the colored people, felt it necessary to deny that they were Abolitionists or connected with the Abolitionist party.[15] Nevertheless, the opponents of negro suffrage identified it with that party, and Moses M. Strong in his speech on the question "came down—like a perfect avalanche" upon the anti-slavery enthusiasts and declared for "war to the knife and knife to the hilt."[16] The same speaker said that unless negroes were refused the ballot, the constitution would not receive fifty votes west of Rock River, for the inhabitants of that region would consider it an infringement on their natural rights to be placed on an equality with negroes. Mr. Gibson replied that the North and East as strenuously advocated giving black men the right to vote as the West opposed it; that this feeling was increasing daily and would continue to increase as long as the question might be agitated.[17] The next day a motion to submit the question separately to the people, was opposed on the ground that the West feared, mistakably indeed, that the East intended to force negro equality upon them and would, therefore, vote down the entire constitution; they could not be convinced that most of the people in the East were "sound" on this matter, for the debates in the legislature had made it appear that negro suffrage was the settled policy of the eastern counties.[18] The debate on striking out the word "white" from the suffrage article took place October 21, and next day the discussion turned on the proposition to take a separate vote on

[13] *Ibid.*

[14] *Ibid.*, Speech of Mr. Burchard; also *Wisconsin Argus*, Madison, Oct. 27, 1846, *Madison Express*, Oct. 27, 1846, Warren Chase, Judd; also communication by an "Inquirer" in issue of Nov. 10.

[16] *Ibid.*, Oct. 27.

[17] *Ibid.*

[18] *Wisconsin Argus*, Oct. 27, 1846. Speeches of Bevans, Burnett, and Moses M. Strong.

the question of colored suffrage. As was to be expected, the friends of the negroes based their arguments on the principles of equality, of democracy, of the natural rights of man, and of the injustice of taxation without representation; and then half gave away their case by carefully proving that granting the elective franchise would not encourage negro immigration. The negroes, said Mr. Judd, had been brought up here and knew only our laws, country and language, and must be regarded as citizens. Mr. Burchard admitted that Africans were degraded and borne down by the general prejudice against them and that social equality was impossible. But the removal of the color discrimination would be in accord with the principle that "all men are born free and equal." Negroes had rights and needed the ballot to protect them. "Is it not wrong to deprive the negro of the right to vote and then as an equivalent tender to him exemption of his property from taxation? We live * * * in an age of progressive democracy. * * * Until you can prove that it is a crime to be born with a colored skin, I appeal to your justice, to your humanity, to let this provision mark the progress of liberal views."[19] About a dozen others were on the same side, actuated not only by their theoretical democracy, but also, as Mr. Gibson avowed, by the desire to strike at the institution of slavery. On the other side, also, familiar arguments were used. The right to vote was not a natural right but a franchise bestowed or withheld as the public good demanded. There were only a few in the state, and it was therefore useless to agitate a mere abstraction. Negroes were too servile and despised ever to be put on an equality with white men, but giving them the suffrage would tend to promote intermarriage and amalgamation. Mr. Ryan, who many years later as chief-justice proved himself the greatest jurist of Wisconsin, feared that the state would be overrun by fugitive slaves who then made Canada their destination. He was in favor of ameliorating the conditions of the negroes and thought the plan of colonization was the most practicable means; but social equality was impossible. He said that in New York City every

[19] Burchard's speech is printed, evidently from a manuscript, in the *Madison Express*, Oct. 27, 1846.

negro was a thief and every negro woman worse, and asserted that it was wrong to mingle races on whom God had put an insuperable mark of separation.[20] On the 26th, W. H. Clark made a similar argument and confirmed his reasoning by quoting from the speech of McQueen in the North Carolina convention of 1835.[21] He apparently agreed with some negro champions that the ancient Egyptians were negroes, but the blacks had never had energy enough to assert their freedom, had not shown themselves safe depositories of political power, and even in ancient Egypt when they had cradled the arts and sciences, had been merely enlightened slaves. The pyramids, he said, were "everlasting mementoes of the abject despotism which forced unwilling hands to pile those masses to the clouds."[22]

The suffrage article had been reported to the convention with the usual race discrimination, and the motion to strike out "white" was defeated, after the debate of Oct. 21, by a vote of 91 to 12.[23] The proposition to submit the question to the test of popular judgment was to be more successful. It was defended, on the ground that it would allay agitation by destroying the ground on which the radical anti-slavery men stood, and that it was in accord with democratic principles; and denounced, as a firebrand to be thrown into the whole West, merely to gratify a handful of violent abolitionists. Many of the eastern members were no doubt influenced by the attitude of their constituents and dared not attempt to stifle agitation, and probably they also feared that the abolitionist vote would be cast against the constitution unless an opportunity should be given to vote directly on the negro suffrage issue. Accordingly, after the amendment providing for separate submission had been twice defeated,[24] it was finally passed by a vote of 55 to 48.[25]

The suffrage question was not prominent among those discussed

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[20] *Ibid.*

[21] *Ante*, p. 45.

[22] *Madison Express*, Nov. 3, 1846.

[23] *Journal of the Convention of 1846*, pp. 29, 67, 91, 94. The twelve were: Atwood, Burchard, Warren, Chase, Doty, Gibson, Giddings, Goodell, Hunkins, Moore, Randall, Tweedy.

[24] *Madison Express*, Oct. 27, 1846.

[25] *Con. Journal*, pp. 324, 355. For fragmentary reports of speeches, see *Madison Express*, for Oct. 27, and Nov. 3; *Wisconsin Argus*, for Oct. 27, 1846; *Wisconsin Democrat*, Saturday, October 24, 1846.

by the press, and the vote on the first Tuesday of April 1847, indicates that little public attention was drawn to it. On March 30, the *Madison Express* published a letter from a New York correspondent of the *Milwaukee Sentinel*, in which it was charged that the convention had combined the question of the right to hold office with the suffrage proposition, in order to insure its defeat. No other reference to the subject appeared in this paper during several weeks before and after the vote was taken. The constitution was defeated by 20,232 to 14,119 and the negro suffrage clause by 14,615 to 7,564.[26] The southwestern counties of the territory, where many southern people had settled, gave very large majorities against the proposition to let black men vote. The Germans along Lake Michigan, whether because an attempt had been made in the convention to couple the vote on foreign suffrage with that on negro suffrage, or because foreigners had a natural antipathy to colored men, voted the same way. Still, nearly half the votes on the question in Rock county, and a majority of the votes on this issue, in Racine, Walworth, Waukesha, Jefferson, Dodge, Fond du Lac, and Winnebago counties, were cast on the side of equal rights. These counties, which constituted a solid strip north and south across the eastern part of the area then settled, had been occupied largely by New Englanders, and the votes which they gave on this question furnish a slight intimation of how potent was to be the influence of New England in the anti-slavery movement and the struggle for negro rights and privileges.[27]

The defeat of the first constitution led to the election of another convention, which met at Madison, December 15, 1847, for the purpose of drawing up another instrument more likely to meet the approval of the people. A large majority of the sixty-nine members were natives of New York and New England.[28] The vote of December 31, on the motion of Mr. Chase,

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[26] Baker, F. E., *op. cit.*, p. 8; Gregory, J. G., *Negro Suffrage in Wisconsin*, *Trans. Wis. Acad. of Sciences, Arts and Letters*, vol. XI., p. 94.

[27] Baker, F. E., *op. cit.*, pp. 8, 9, 10; Geer, E. M., *The Louisiana Purchase*, Vol. VIII. of the *History of North America*, edited by G. C. Lee, pp. 306 to 309.

[28] New York 25, Connecticut 9, New Hampshire 3, Vermont 7, Massachusetts 6, Maine 1, Pennsylvania 2, New Jersey 1, Ohio 1, Northwest Territory 1, Maryland 1, Virginia 1, Kentucky 4, Ireland 5, Bavaria 1, Norway 1, *Journal of the Convention of 1847 48, with a Sketch of Debates.*

"a sterling old school Democrat,"[29] on striking out the word "white" was 45 to 22 against removing the discrimination. The twenty-two who favored negro suffrage comprised twenty New Yorkers and New Englanders, a Kentuckian and an Irishman.[30] On the following day Experience Estabrook of Walworth county moved to grant the elective franchise to everyone already in the territory, and to provide for legal regulations in the case of those who should come in the future.[31] His proposition seems to have been ignored, but on January 3, 1848, he offered an amendment to the suffrage article, providing "that the legislature shall at any time have the power to admit colored persons to the right of suffrage on such terms and under such restrictions as may be determined by law," which was adopted by a vote of 35 to 34.[32] After some discussion, it was reconsidered and was rejected by the same close vote. On the next day, however, it was adopted with the further provision that no such law should be valid unless ratified at a general election by "a majority of all the votes cast at such election."[33]

The records of speeches in this convention help reveal the points of view from which the negro suffrage question was regarded. Those who opposed giving the Legislature any power to bring up the subject in the future declared that it had been settled at the spring election, that there was already too much feeling on negro questions, and that the proposed clause would become a source of perpetual agitation, discord and strife.[34] The other side argued that a considerable minority, "respectable in numbers and respectable in intelligence," favored negro suffrage and had a right to show their strength at the ballot box. Seven years before, said Mr. Estabrook, it would not have been possible to muster a corporal's guard who would have been willing to let colored men vote; but public opinion had made such rapid progress that, in the preceding spring election, several counties gave majorities for equal suffrage. If the time should come when a majority should favor abrogating the

[29] Gregory, *op. cit.*, p. 96.
[30] *Journal*, etc., p. 145.
[31] *Ibid.*, p. 130.
[32] *Ibid.*, p. 180.
[33] *Ibid.*, pp. 185, 192, 193.
[34] *Ibid.*, pp. 181, 193, Rountree, p. 184, Kilbourn, p. 192 Prentiss.

color distinction, they ought not to be bound hand and foot by constitutional prohibitions.[35] Mr. Jackson, who had voted to expunge the word "white", complained that some were accustomed to charge abolitionism against those who favored colored suffrage; but, he and others explained, there were many besides abolitionists who believed that giving blacks the elective franchise was right in principle.[36] Mr. Estabrook said that "fat, sleek-headed democracy" revolted at the bare mention of the word "negro"; but he expressed the opinion that large numbers of Democrats in Walworth county favored negro suffrage. He said also that the Whig convention of that county in the fall of 1846 had adopted a resolution instructing their delegate to work for universal suffrage, and that there was in the state "what was called a liberty party, and universal suffrage was their one idea."[37]

The legislature of the new state was not slow to act according to its power with regard to the elective franchise. In March 1849, the Assembly by a vote of 35 to 32, and the Senate by a vote of 9 to 5, passed a law submitting the question of equal suffrage to the people. By a vote 35 to 22, the Assembly inserted in the proposed amendment the words: "And eligible to hold any office in the State." Perhaps some members were the more willing to accept this change because they thought it would insure the defeat of the whole proposition.[38] The sentiment in favor of negro suffrage was not confined to any party; there was undoubtedly a widespread feeling against the arrogance of the South, which naturally connected itself with the general agitation of negro questions.[39] A Whig paper charged that the Democrats were opposed to negro voting.[40] The Free Soilers certainly did not make this question their main issue, for they nominated for attorney-general, Marshall M. Strong, the apostate from the negro's cause in the convention of 1846.[41]

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[35] *Ibid.*, pp. 130, 183, Estabrook, p. 181, Cole, Harvey, 192, Seagel.

[36] *Ibid.*, p. 184, Jackson, p. 193, Judd.

[37] *Ibid.*, pp. 183, 130.

[38] *Assembly Journal*, Mch. 8, 1849., pp. 387, 388; *Senate Journal*, Mch., 6, 1849, p. 440.

[39] J. T. Gregory, *op. cit.* p. 97.

[40] *The Southport American*, Aug 29, 1849.

[41] *Ibid.*, Sept. 12.

There can be little doubt, however, that most of those who desired to let black men vote were in the ranks of the Free Soilers; but they were quarreling with the Old Time Democrats, they made no campaign on the issue, and aroused little popular interest. The total vote for governor was 31,727, but on negro suffrage the total vote was less than ten thousand. The measure was carried in favor of the negroes by 5,265 to 4,075,[42] but it was assumed that nothing could be determined by so light a vote, and it was not until 1866 that the supreme court interpreted the words, "a majority of all the votes cast at such election", to mean a majority of the votes on the particular question of negro suffrage and decided that colored people had legally possessed the elective franchise for seventeen years.[43]

Illinois, 1847

Meanwhile this question had been raised in Illinois. Colored people had scarcely any rights in that state, and politicians assumed the disfranchisement of them as a matter of course. On June 13, 1836, Lincoln, in announcing his political views wrote: "I go for admitting all whites to the right of suffrage who pay taxes or bear arms ("by no means excluding females)". But from the early forties, anti-slavery men had been so persistently advocating equality, citizenship, and education for negroes that they liberalized sentiment toward them in the northern part of the state and created there a demand for negro suffrage.[44] Petitions praying for the repeal of all laws making distinctions on account of color were sent to the legislature in 1847,[45] and inevitably the question came up in the constitutional convention which sat during the summer of that year. Petitions in considerable number for and against negro rights were sent to the convention and indicated that the matter had been before the public mind. A clause forbidding the legislature ever to grant the right of suffrage to colored people,

[42] Smith, T. C., *The Liberty and Free Soil Parties in the Northwest*. p. 333. Gregory, *op. cit.*

[43] 20 *Wis.* p. 544.

[44] Harris, N. D., *Negro Servitude in Illinois*, pp. 228, 231.

[45] *House Journal*, Feb. 9, 15, 1847, pp. 338, 392; *Sen. Journal*, Jan. 9, pp. 22, 91, 148.

was laid on the table, 91 to 60, and an article prohibiting intermarriage with whites and declaring negroes forever ineligible to office was defeated, 65 to 64.[46] These propositions were probably laid aside as wholly impertinent. The votes certainly are not an indication of a desire to have negroes vote or hold office, for on June 22, when a motion was made to strike out the word "white," from a resolution instructing a committee to consider certain amendments of the suffrage clause, it was defeated, 137 to 8.[47] The eight who favored the motion came from northern counties of the state, Cross and Church from Winnebago, Sibley and Deitz from McHenry, Swan from Lake, Mason from Kendall, Judd from Kane, Whitney from Boone. A similar distribution of sentiment is shown by the popular vote on another negro question. By a vote of 87 to 56 the convention referred separately to the people a clause which directed the legislature to prohibit the immigration of colored men into the state. When this proposition was submitted, along with the constitution, in the spring of 1848, fourteen northern counties were carried against it, but it was, nevertheless, adopted by 49,063 to 20,884,[48]

California, 1849

The North, like the South, was averse to the presence of negroes in a state of freedom, and about this time the same feeling was manifested out on the Pacific coast. In the autumn of 1849 a convention, composed of members whose birth-places were scattered among sixteen states and five European countries,[49] met to frame a constitution for California. It was taken for granted that negroes should not be electors, and the only

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[46] Smith, *op. cit.*, p. 334.

[47] *Ill. Con. Journal*, 1847, p. 76; also *Publications of the Ill. Hist. Library*, 1904, p. 426.

[48] Smith, *op. cit.*, p. 334.

[49] Classified according to birthplace: Maine 1, Vermont 1, Rhode Island 1, Massachusetts 2, Connecticut 1, New York 11, Pennsylvania 1, Maryland 5, New Jersey 1, Virginia 3, Kentucky 3, Tennessee 1, Missouri 1, Florida 1, Ohio 3, California 7, Scotland, Ireland, Spain, France, and Switzerland each 1,—48. According to previous residence: Connecticut 1, Massachusetts 2, New York 10, New Jersey 2, Pennsylvania 1, Maryland 3, Ohio 1, Indiana 1, Illinois 1, Wisconsin 1, Missouri 7, Virginia 2, Texas 1, Louisiana 4, Oregon 1, California 8, Scotland 1, France 1.—48. *Cal. Con. Report.*, 1849.

reference to the idea of negro suffrage was made by a member who, in arguing in favor of permitting Indians to vote, protested that they should not be classed with Africans.[50] On September 11, 1849, a motion was made to insert in the bill of rights, a section which would prohibit the immigration of free colored persons, and prevent slaveholders from bringing their negroes to the state for the purpose of setting them free.[51] The precedent of Illinois was adduced in support of this provision. Several members presented evidence that, unless it should be adopted, slave owners would bring in their slaves, work them a short time in the gold mines and then set them loose upon the community.[52] "When this constitution goes forth without a prohibitory clause relative to blacks, you will see a black tide setting in here and spreading over the land."[53] "The whole country will be filled with emancipated slaves," said Mr. Semple, "the worst species of population—prepared to do nothing but steal, or live upon our means as paupers."[54] It was agreed that free negroes were thriftless, ignorant, and vicious and that their presence would be as great an evil as slavery.[55] The introduction of negroes would degrade the white laborers. "The capitalists will fill the land with these living machines, with all their attendant evils," said Wozencraft. "Their labor will go to enrich the few, and impoverish the many: it will drive the poor and honest laborer from the field, by degrading him to the level of the negro."[56] "Do you suppose the white population of this country will permit these negroes to compete with them in working the mines?" asked McCarver. "Sir, you will see the most fearful collisions that have ever been presented in any country."[57] Mr. Tuft declared: "It would be a monopoly of the worst character. The profits of the mines would go into the pockets of single individ-

[50] *Ibid.*, p. 70, Gilbert.
[51] *Ibid.*, p. 48, McCarver.
[52] *Ibid.*, pp. 137, 138, 139, McCarver, Semple, Sept. 19, p. 332, Jones, p. 146, Stewart.
[53] *Ibid.*, p. 49, Wozencraft.
[54] *Ibid.*, p. 138.
[55] *Ibid.*, p. 50, Wozencraft, p. 138, McCarver, p. 142, Hastings, p. 148, Semple.
[56] *Ibid.*, p. 49.
[57] *Ibid.*, p. 138.

uals. The labor of intelligent and enterprising white men, who, from want of capital, are compelled to do their own work, would afford no adequate remuneration. . . . What consistency would there be in declaring that all men are free, and then deny our own white citizens the privilege of laboring and subject them to the influence of monopolies which would not only degrade their labor, but amount in effect to a prohibition of the right to labor, for I contend, sir, that no man can or will labor unless he is remunerated by the result."[58] It was not the last time that race and labor questions came up together in California, and, to those who have even slightly considered the arguments of later years on Chinese immigration, some of the utterances on the other side of this negro question will have a remarkably familiar sound. If negroes are to be kept out, asked Gilbert, "why not also erect barriers against the miserable natives of the Sandwich Islands and the Pacific archipelagoes, against the miserable, the degraded wretches from Sydney and New South Wales, and against the refuse of population from Chili, Peru and Mexico?"[59] "I do contend," said Mr. Shannon, a native of Ireland, who had seen prosperous and intelligent blacks in New York, "that free men of color have just as good a right, and ought to have, to emigrate here as white men. I think, too, that the necessities of the territory require them: the necessities of every state in the Union require them. They are required in very department of domestic life; they form a body that have become almost necessary for our domestic purposes. . . . I do not want the people of California to be cut off from the services of any particular body of men. It matters not if they were baboons or any other class of creations."[60] It was argued that an exclusion clause would violate the constitutional guarantee of the privileges and immunities of citizens, and that Congress, which contained many members with Free Soil principles, would refuse to admit California into the Union. The legislature could later take care to prevent a deluge of undesirable population, but it was immediately necessary, aside from questions of sound or unsound

[58] *Ibid.*, p. 144.
[59] *Ibid.*, p. 150.
[60] *Ibid.*, pp. 139, 143.

policy, "to present to the people a constitution free and liberal in its principles."[61] There were those, also, who opposed the prescription of free blacks not only as endangering the admission of the state, but as morally wrong and contrary to the rights of man and the principles of freedom.[62] The fear that statehood might be delayed, prevailed, and the immigration law was defeated,[63] in spite of the defiant words of Semple who preferred "being kept out of the Union to all eternity" to acknowledgeing that Congress could overrule the right to exclude free negroes. "I would take my rifle," he said, "and defend that right as freely as I did the flag of the United States when we achieved the right to this territory."[64]

The year 1850, in which California was admitted to the Union, brings us back to consider three constitutional conventions of the Northwest which met that year in the states of Michigan, Indiana, and Ohio.

Michigan, 1850

Michigan had been settled mainly by people from New England and New York, who brought with them a familiarity with the negro suffrage question.[65] A member of the convention of 1850, speaking against striking out the word "white," said that he had voted down the same proposition in the Michigan convention of 1835.[66] During the whole decade of the forties, petitions for impartial suffrage provisions kept appearing in the Legislature. The number was greatest in 1846, and decreased in the last few years before 1850.[67] The year after the report of the committee to the Iowa constitutional convention

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[61] *Ibid.*, p. 146, Dunmick, p. 150, Gilbert, p. 330 Norton.

[62] *Ibid.*, p. 149, Gilbert, p. 144, Shannon.

[63] *Ibid.*, p. 332, vote 39 to 8.

[64] *Ibid.*, p. 332; see Thorpe, *Constitutional History of the American People*, II, 297.

[65] Thorpe, *op. cit.*, II, p. 353., Smith, *op. cit.*, 327.

[66] *Michigan Convention Debates*, 1850., p. 758, McClelland.

[67] *House Journal*, 1840, p. 336; 1841, p. 170; 1842, pp. 63, 73, 106, 111, 160, 161, 213; 1843, pp. 95, 135, 165, 197, 259, 290; 1844, pp. 14, 32, 42, 51, 57, 66, 74, 89, 95, 101, 107, 114, 142, 293, 309; 1846, pp. 21, 26, 38, 43, 44, 58, 69, 73, 74, 78, 82, 93, 99, 113, 114, 123, 132, 145, 157, 337, 400; 1848 p. 200; 1849 and 1850 apparently none. *Senate Journal*, 1842, pp. 83, 89, 104, 145; 1843 none; 1844, pp. 10, 198; 1845 pp. 27, 42, 53, 133.

was made, an equally notable document on the other side of the question was produced in Michigan. On March 10, 1845, in the Michigan Senate, Mr. Denton from the committee on State Affairs, to whom had been referred sundry petitions for striking the word "white" from the constitution, offered a report on the subject of negro suffrage.[68] The natural rights of man, "the Siamese brotherhood of taxation and representation. . . . the peculiar claims on democracy to carry out its principles," were leading considerations in favor of removing all color distinctions. Denton was a Democrat,[69] fully believed in Jacksonian principles and carried them to a logical conclusion. "No principle is more dear to pure democracy," he declared, "than the extension of suffrage." He would not agree that negroes were outside the body politic. "We are united as a nation, but by voluntary compact," he explained. "A compact based on man's natural rights binds us into a common people. While these rights and their consequent principles are *practically* respected, our compact will be performed and our union indissoluble." He denounced the "preposterous puerility of making *color* a qualification for suffrage," and denied that negroes were of inferior race or had weaker intellects than white men. "Neither history nor experience sustains the objection. On the contrary they conclusively refute it. Like other nations Africa had her season of glory. During it she was one of the most powerful nations of the world. Her victorious arms had nearly annihilated the Romans. Her black Hannibal will ever be found in the catalogue of the Caesars and Bonapartes." He showed by the experience of other states that negro suffrage would not encourage immigration of free blacks. He denied that the colored people would all adhere to the same party. "At present, but one political party advocates, as a party measure, colored suffrage," and it naturally has the sympathy of negroes; but once the right is granted they will divide among all parties. "Public opinion has materially changed on the subject since our constitution was formed. Each year gives evidence of a

[68] *Senate Journal*, 1845, p. 263.
[69] *Mich. Con. Debates*, 1850, p. 287.

growing interest in the topic and in others incident to it. The ballot box of last fall spoke the sentiment of nearly four thousand voters. Already the constitutional restriction has been swept away before the rising sentiment, and the colored man was permitted to vote in Detroit, on an election of unprecedented interest, neither party having the hardihood to offer a challenge on the ground of color.'' Restriction of negro voting by a property qualification would be as objectionable as total disfranchisement, for by it ''integrity of principle would be surrendered.''

Another member of the committee, Abner Pratt, replied in a minority report in which he complained that he had not been given notice that any action was to be taken, and that only a short time was left him to prepare an answer. The substance of his argument was, that the effect of negro suffrage would be to fill the state ''with fugitive slaves from Missouri, Tennessee, Kentucky and Virginia,'' who in a few years might become so numerous that they could elect some of their number to office. The majority of the Senate were in sympathy with these views, and accordingly, by a vote of 9 to 6, the report and the joint resolution were referred back to the committee.[70] The six who voted in the minority were probably Democrats, for the Liberty men were not yet strong enough to elect so large a proportion of the Senate. It could have been no other than the Liberty party that was mentioned as advocating negro suffrage as a party issue, for the voting strength of nearly four thousand was just about the strength of that political organization in Michigan in 1844.[71] Changing into the Free Soil party, its strength steadily increased, and in 1848 Michigan cast 10,389 votes for Van Buren.[72]

When the constitutional convention met in 1850, the agitation for negro suffrage temporarily found a new channel. During the first weeks of the session there were sent to the convention many petitions signed with an aggregate of about

[70] *Documents* accompanying the *Senate Journal* of Michigan, at the annual session of 1845, No. 15; *Sen. Journal*, 185, p. 263.

[71] Smith, *op. cit.*, p. 325.

[72] *Ibid.*

three thousand names.[73] A member said that the petitioners on this subject numbered six times as many as the petitioners on all other subjects which had come before the convention.[74] On June 27th came the inevitable motion to strike out the word "white" from the article on elections.[75] Many arguments employed in other conventions appeared in Michigan at this time. The word "white" was indefinite; no one could tell to what shade of color it applied.[76] Many negroes were good citizens, peaceable, industrious and progressive, and their neighbors spoke well of them. Their apparent inferiority was due to slavery and prejudices of whites. The experiences of New England showed that granting them the elective franchise would not cause an influx from the South. Political equality would not bring about social equality. Suffrage extension would be in accord with the principles of democracy, with the ideal of no taxation without representation, and with the doctrine that "all power is inherent in the people."[77] Mr. Leach said a majority of his constituents must be in favor of removing the discrimination, for they well knew his views when they elected him.[78] Suffrage was a natural right, or, if there was a distinction between natural and conventional privileges, "all men certainly have the same natural right to enjoy those conventional rights, because the father of democracy tells us that 'all men are created equal.'"[79] Disfranchisement would be unrepublican and unjust, "an act destitute of every vestige of honor, unless there is honor in the triumph of the strong over the weak."[80]

The opponents of negro equality were quite sure that negroes were inferior and depraved, that they could not permanently dwell together with whites on a plane of equality, that negro suffrage would cause amalgamation and compel associa-

[73] *Michigan Convention Debates*, 1850., pp. 36, 68, 93, 102, 120, 175, 218, 240, 257, 286, 297, from June 8 to June 26.
[74] *Ibid.*, p. 284, Williams.
[75] *Ibid.*, p. 284, Orr.
[76] *Ibid.*, p. 284, Pierce.
[77] *Ibid.*, pp. 285, 286, 287, 288, 289. Leach, N. Pierce.
[78] *Ibid.*, p. 285.
[79] *Ibid.*, p. 290, Leach.
[80] *Ibid.*, p. 289.

tion of the races in churches and legislatures. Granting blacks the privileges of electors would attract hordes of them into Michigan, and they would crowd the whites out of the peninsula. The Declaration of Independence could refer only to white men, for both Jefferson and Washington held slaves. Negroes were more enlightened and happy in America than back in Africa where their lives were at the mercy of bloodthirsty chiefs, or than they would if separated from the whites, and sent away for twenty years to live by themselves. The obligations of justice had been more than satisfied, and the people of Michigan were not bound to be so imprudent as to divide their political authority with negroes, or to let them have a share in piloting the ship of state on which they had been suffered to become passengers. Attempts to secure equality between races that nature had so widely separated, could result only in misery. The true mode of relief would be colonization: "I believe the African has come here to be educated for a great purpose," said one member more in jest than earnest. "When he shall be raised to a certain state, in comparison with our own, he will go back to Liberia * * * to Africa * * * to find the sources of the Nile, which have never been found by those barbarous tribes."[81]

The motion to strike out "white" was lost, and then the proposition to submit the question to the people was considered.[82] It was objected that a negro suffrage clause had no chance of being ratified and a submission of it would only create popular excitement about a dangerous question.[83] In reply, it was said that many people wished to vote on this issue, that it had been agitated in the Legislature for several years, and that a referendum would quiet this agitation.[84] An attempt to have negroes included in the basis of representation had failed,[85] another motion to strike out the word "white" was defeated by 46 to 13,[86] but the resolution which referred the question of

[81] *Ibid.*, pp. 287, 290, 291, Bagg, pp. 289, 296, Pierce.
[82] *Ibid.*, pp. 296, 297.
[83] *Ibid.*, pp. 297, 483, Bagg.
[84] *Ibid.*, p. 297, Bush, Kingsley.
[85] *Ibid.*, p. 295, Britian.
[86] *Ibid.*, p. 758.

colored suffrage to the people was passed by a vote of 54 to 12.[87]

The convention which took this action was overwhelmingly Democratic, with a few Whig and Free Soil members.[88] The nativity of the members was probably fairly representative of the origin of Michigan's population. There was only one native of Michigan, while four-fifths of the delegates were born in New York or the New England states.[89] Nearly, all, therefore, who voted either way on the suffrage question were natives of those states, and it is a matter of surprise that the proportionate number of delegates in favor of permitting blacks to vote was not only smaller than in New York in 1846, but smaller than in Wisconsin in 1847.[90] Perhaps this was due to the predominance in the convention of Democrats, among whom the most rabid anti-negro men were found, for the friends of the African made a better showing at the fall election, when the constitution was adopted by 36, 169 to 9,433 and the negro suffrage clause rejected by 32,026 to 12,840.[91]

Indiana, 1850

The sentiment in Indiana was much less favorable to the negro than in Michigan. The suffrage had been agitated along with other negro questions during the preceding decade, although it had not been very prominent in the two or three years preceding the convention.[92] In the canvas before the election of delegates to that body, however, negro suffrage was an important issue, and was discussed in all parts of the state.[93] Members of the convention associated the agitation for extension of the elective franchise to colored people, with the Free Soil party: to them, a Free Soiler was presumptively

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[87] *Ibid.*, p. 746.

[88] *Ibid.*, p. 487, Bagg.

[89] Maine 2, Vermont 8, New Hampshire 4, Massachusetts 13, Connecticut 10, New York 43, Pennsylvania 3, New Jersey 2, North Carolina 1, Virginia 1, Michigan 1, Upper Canada 3, Lower Canada ,4 New Brunswick 1, Ireland 2, Scotland 1.

[90] *Ante*., pp. 77, 86.

[91] *Whig Almanac*, 1851., p. 59 .

[92] *Debates in the Indiana Convention*, 1850, p. 252, Kilgrave.

[93] *Ibid.*, p. 230, Colfax, p. 233, Foster, p. 235, Robinson, Blythe.

in favor of letting black men vote, although it was pointed out that the same opinions on this question were held by many, perhaps several thousand, members of other political organizations.[94] Estimates of the number who sided with the African on this question, varied from five thousand to ten thousand.[95] This was a small number in the comparatively populous commonwealth of Indiana, and it is not surprising that there was elected to the convention only one delegate who voted for negro suffrage.

There were more, however, who were willing to have the people decide the issue for themselves. On October 23, 1850, Mr. Hawkins presented a resolution to the effect that a majority of the legal voters might, at a general election, provide for universal suffrage. The present constitution, he said, was undoubtedly a compact or agreement or contract among the white men over twenty-one years old in the state; but they ought to be able, if they ever desired, to admit others into the compact.[96] No definite action seems to have taken on this proposition, but, on the 26th, Schuyler Colfax, later Speaker of the House of Representatives in Reconstruction times and Vice-President with Grant, presented another, which differed from that of Mr. Hawkins in providing for just one vote on the negro suffrage question to be taken separately when the constitution should be submitted to the people.[97]

The speakers in favor of this provision nearly all carefully declared that they were themselves opposed to negro suffrage, although one of them intimated that he might be induced to vote for extending the elective franchise to negroes under property and educational qualifications,[98] but they argued that permitting the people to vote directly on the issue would quiet agitation, and would conciliate the Free Soilers who might otherwise oppose the new constitution itself.[99] The members of the third party had a right to be heard, for they were people of worth and character. They were emminently moral and intel-

[94] *Ibid.*, p. 229, 242, Colfax, 234, Kilgore.
[95] *Ibid.*, p. 229, Colfax, p. 251, Edmonston.
[96] *Ibid.*, p. 172.
[97] *Ibid.*, p. 229.
[98] *Ibid.*, p. 253, Kilgore.
[99] *Ibid.*, p. 230, Colfax, p. 231, Owen, p. 234 Robinson, p. 250, Crumbacker

ligent people, Mr. Robinson declared. "They compose a large portion of the pioneers of this country. They were here improving the soil, perhaps, before some gentlemen, who have taken it upon themselves here to denounce them, were located upon it." "The free-soil party", said Colfax, "number in their ranks as high minded and honorable men as any upon this floor. "From my own knowledge of a great many persons belonging to that party, I can testify for them to their respectability and sterling worth."[100] But the majority were not so willing to dally with the idea of negro suffrage, and some opposed it with fierce disgust. Mr. Dobson declared that he wanted "to settle it right," and moved an amendment providing that unless they were in a majority, "all persons voting for negro suffrage shall themselves be disfranchised." "Whenever you begin to talk about making negroes equal with white men I begin to think about leaving the country."[1] Submitting this question to the people would be throwing a firebrand that would keep up the unpleasant "sectional feeling growing out of the slavery question."[2] The state would be "flooded with those lecturers, who would not hesitate to dissolve the Union in order to carry out their principles."[3] Mr. Edmonston said: "This threat (that Free Soilers will vote against the constitution) has no terrors for me, so long as the alternative is that I shall agree to submit to the people the question of placing a black negro upon an equality with a white man." On the expediency and justice of negro suffrage itself, the usual arguments were advanced: that Africans were ignorant and of an inferior race, that they were better off in America than in their original home, that race differences made political association impossible. "The black race has been marked and condemned to servility; and should feeble man claim to erase from them the leprosy which God has placed upon them?"[4] As in previous conventions, the question of immigration came up with that of suffrage. The majority agreed that free blacks were an undesirable element

[100] *Ibid.*, p. 234, Robinson, p. 242, Colfax, p. 250, Crumbacker.
[1] *Ibid.*, pp. 232, 233.
[2] *Ibid.*, p. 235, Robinson, p. 237, Pepper, p. 240, Maguire, p. 249, Graham.
[3] *Ibid.*, p. 232, Edmonston.
[4] *Ibid.*, p. 231, Owen, p. 233, Dobson, p. 237, Hawkins, p. 251 Edmonston.

of population and ought to be kept out. The recent measure of Kentucky, to exclude and expel from the state all negroes who were not slaves, were regarded as necessitating drastic action by Indiana to avoid being overrun by multitudes of colored profligates and paupers, and "old, unserviceable, and superannuated negroes" who, in the slave states, "are set free, that their masters may not have to support them."[5] Unless the whites would amalgamate with the blacks, or give up the state to them, they must keep them out and try to be rid of those already in the commonwealth. "They should all be sent to Liberia or some other part of Africa," said one member. "I believe they have intelligence enough to build up a successful community on the shores of their native Continent, and to govern themselves . . . They can introduce civilization and perhaps do for Africa what the Anglo-Saxon had done for America. . . . They will take with them the Bible, and a knowledge of our institutions—they will ultimately occupy all that country and become a prosperous and happy people.[6]

The men of anti-slavery sympathies, although not in favor of letting negroes vote, opposed so harsh a measure as excluding them from the state. Mr. Hawkins denounced a proposition "to prohibit the immigration of any portion of God's rational human beings, born on American soil, and under the protection of the stars and stripes, as a greater outrage upon all the principles of our boasted institutions than any other yet presented."[7] Mr. Kilgore, who thought favorably of restricted negro suffrage,[8] denied that negroes were inferior by nature. "Give them the proper training and they will exhibit as much talent as any class of beings upon God's footstool."[9] Only one member came out defiantly on the side of the black race. A resolution instructing the committee on elective franchise to report a provision that negroes and mulattoes should be voters at all elections was offered, in order to make a more decisive issue, by a member who said he himself would vote in the nega-

[5] *Ibid.*, p. 234, Robinson, p. 328, Dobson, p. 247, Read of Clark, p. 249, Graham.

[6] *Ibid.*, p. 239, Dobson, pp. 247, Read of Clark, pp. 248, 249, Stevenson.

[7] *Ibid.*, p. 237.

[8] *Ante.*, p. 99.

[9] *Debates in the Indiana Constitution*, 1850, p. 252.

tive.[10] It was thought that no one would speak in favor of such a resolution,[11] but Mr. May rose and declared that it was the duty of the Convention: "To give to the negro this right of suffrage under such restrictions as may, after a careful view of the subject, seem most wise and for the best," such, for example, as were imposed on foreigners. "Either the negro is a man constituted like ourselves by nature, or else he is only an animal—a mere brute. If the negro be but the mere brute—let us treat him as one in all respects. Let us also efface the divine stamp of immortality and the evidences of manhood from his features, and brand the word 'chattel' upon his brow. But if we decide that the negro is a man—that he has the attributes of humanity—then let us for our sake, if not for his, for consistency's sake, ever recognize him as a man and treat him as a man. I shall never shrink from uttering my conviction that there is much truth in the principles of the Free Soil-party. I regret to see that there exists here, every disposition to crush every expression of sympathy for the negro race, and I have sometimes fancied I saw a disposition in this hall to crush to the ground every man who ventured to give utterance to such sympathy."[12]

Mr. May, who represented DeKalb and Steuben counties in the north-eastern corner of the state, was the only one who voted for the proposed instructions to the committee; the vote stood 122 to 1. The proposition of Colfax to submit the question to the people, was defeated by 62 to 60.[13] The provision for excluding negroes from the state which was to be referred to the people was carried by a vote of 93 to 40 and ratified at the polls by the voters of the state, although 20,956 ballots were cast against it.[14] Not content with leaving the color discrimination as it stood in the constitution of 1816, which limited the suffrage to "white male citizens" with the proviso that the article should not be construed to disfranchise "citizens of the United States, who were actual residents at the time of

[10] *Ibid.*, p. 239, Berry.
[11] *Ibid.*, p. 238.
[12] *Ibid.*, pp 245, 246.
[13] *Ibid.*, p. 253.
[14] *Ibid.*, 1816–17, p. 2077; Smith, *op. cit.*, p. 337.

adopting this constitution, and who, by the existing laws of this Territory, are entitled to vote," the convention left out this obsolete clause and inserted a new section: "No negro or mulatto shall have the right of suffrage."[15]

Ohio, 1850

The Ohio convention of 1850-1851 took up the negro question on December 4, 1850, when Mr. Woodbury moved to expunge the word "white" from the suffrage article. Several members spoke vigorously in favor of this motion; the principal speeches were made on February 8, 1851. It would be in accord with the principles that all men are created equal and that just governments can be founded only on consent, and would cause negroes to become better and more contented citizens.[16] Mr. Townshend referred to the blacks as "a portion of the people of this State who have the same right to stand upon this part of God's earth, and to breathe this free air that you or I have." He denied that this was the white man's country or that it was just to exclude black men from it: negroes had lived here as many generations as Caucasians, and had fought for the nation's liberty and had received the praises of General Jackson for their valor at New Orleans. "No government, here or elsewhere, has a right to say who shall or who shall not live in any part of the wide world." If the two races cannot live together in peace, why is it so? "I, too, will appeal to history and defy anyone to point out an instance where these conflicts have not grown out of the attempt on the part of one race to oppress the others." He was a Democrat and believed democracy was in accord with the golden rule of Christ. "I see no reason why democracy is not like Christianity, comprehensive enough to embrace the whole family of men."

The other side had the votes and did not need to make speeches; but one of their number urged that negro suffrage "would necessarily inflame the antipathies now existing between the two races. We may say that these antipathies are

[15] Poore, I., pp. 497, 514.

[16] *Ohio Convention Reports*, 1850–51., I., p. 679, Woodbury; II., p. 1178 Townsend; p. 1179, Hitchcock, p. 1181, Woodbury.

wrong, unchristian; but foul words will not do away with facts." Another, utterly denied that blacks had the same rights as white men in this country. "At the same time I adhere to the motto of 'equal rights to all, exclusive privileges to none,' I am willing that the colored race should be colonized."[17] The anti-slavery men admitted that public sentiment would prevent many members from voting for equal suffrage against the will of their constituents, and reproachfully compared the close vote in the convention of 1802 with the present overwhelming majority against the negro.[18] The motion to strike out "white" was defeated, 66 to 12. Although there were thirty natives of Ohio in the convention, only one of them voted for negro suffrage. One of the twelve was a native of Pennsylvania, one of England, three of New York and six of New England. All of them were representatives of Northeastern counties in the region of the Western Reserve, then the principal Free Soil area of the state.[19]

The colored people themselves, encouraged by the anti-slavery agitation, soon took up the question and began to press their demands for equal suffrage. In 1854, a state convention of negroes appointed one of their number, a mulatto named J. Mercer Langston, to draw up a memorial for equal suffrage to the legislature. The memorial, which was presented to the general assembly on April 19, 1854, set forth that negroes were men and as men had rights, and that "it is unjust, anti-democratic, impolitic, and ungenerous to withhold from us the right of suffrage." It was adopted in the Senate as part of the report of the committee, which submitted a bill in accordance with the request. Most notable of all, it was accompanied by a letter from William H. Seward, dated May 16, 1850, in which he expressed his opinion that no citizens of New York voted more conscientiously than the free negroes and his hope that the elective franchise would soon be extended "to this race,

[17] *Ibid.*, II., p. 1180, Sawyer, Nash.

[18] *Ibid.*, II., pp. 1180, 1181, Humphreville, Woodbury.

[19] *Ibid.*, II., p. 1182. The nativity of the convention was: Connecticut 10, New Hampshire 2, Massachusetts 5, Vermont 3, New York 9, New Jersey 1, Pennsylvania 25, Ohio 30, Delaware 1, Washington D. C., 1, Georgia 1, Kentucky 3, Virginia 8, Maryland 4, Tennessee 1, Ireland 1, England 2, Germany 1, *Ibid.*, I., XXVI–XXVII.

who of all others need it most." The writer of the memorial, Mr Langston, stated that he had been elected clerk of a township in which he was the only colored resident, that the like had never been known in Ohio before, and that his election proved "the steady march of anti-slavery sentiment."[20]

Negro Suffrage in Relation to Party and Race

The intimate connection between the Liberty and Free Soil parties and the sentiment for negro suffrage is certain; the enemies of negro equality always charged or assumed that Liberty men and Free Soilers and Abolitionists were in favor of it; the votes for Free Soil candidates and for negro suffrage were numerous in the same areas and were approximately equal in number. For example, the Free Soil vote of Wisconsin in 1848 was 10,418, while a year and a half before the vote for negro suffrage had been 7,664; the Free Soil vote of Michigan in 1848 was 10,389 while the vote for negro suffrage in 1850 was 12,046; the vote for negro suffrage in Connecticut in 1846 was 5,616; for Van Buren in 1848, it was 5,005. The same New York Counties which gave majorities for equal suffrage in 1846, gave large votes for Van Buren in 1848. The northern counties of Illinois and the northeastern counties of Ohio, from which delegates favorable to abrogation of color distinctions, and the eastern counties of Wisconsin where the vote for negro suffrage was heaviest, were all regions of Free Soil strength; while in Michigan, both the vote for colored suffrage, and the Free Soil vote, were evenly distributed throughout the state.[21] In the various state convention there were many natives of New York and New England who voted against giving Africans the elective franchise, but there were almost no natives of any other regions who voted for it. Up to 1850, at least, the votes for negro suffrage and for Free Soil candidates are accountable as due mainly to the presence of New England or New York elements in the population, or to the work of New England Abolitionists and anti-slavery agitators, al-

[20] Nell, *Colored Patriots*, etc., pp. 336-341.

[21] Smith, *op. cit.*, pp. 337, 325, 326; *Whig Almanac*, 1849, pp. 54, 64; *Ante*, p. 77.

though in Indiana and Iowa the Quakers added their strength on the same side. Since these forces were stronger in the northern than in the southern parts of the old Northwest, it is natural to find that there were proportionately more Free Soilers and champions of negro equality in Wisconsin, Michigan and Northern Ohio than in Illinois, Indiana and southern Ohio. Still more significant of the difference between the two parts of the Northwest area is the character of the opposition to negro suffrage, which was far more aggressive, determined and scornful in the south than in the north of this region. In the three southern states the question was not even submitted to the people, while in Michigan and Wisconsin it was. It is notable that frequently the men who would not vote for negro rights themselves, but favored submission of the matter to popular arbitrament, seemed eager to testify to the intelligence and eminent respectability of Free Soilers and others who were on the side of permitting colored men to vote.[22] Such men were not beyond all persuasion; it seems fully warrantable to say that in the northern part as compared with the southern part of the Northwest, there were many more people who were approaching or were at the point of conversion to negro suffrage. The course of events from 1850 to 1857, the next important year in the history of negro suffrage, was favorable to such conversion; for during that time anti-slavery feeling grew apace, and the Kansas-Nebraska struggle, the Dred Scot case and the successful launching of the Republican party were among the intervening occurrences.

[22] *Ante.*, pp. 80, 87, 100.

CHAPTER V

THE REPUBLICAN PARTY AND NEGRO SUFFRAGE, 1857 to 1860

Iowa, 1857

In the state of Iowa these things had brought great change, and there was a great difference between the situation in 1844 and 1846, and that in 1857 when the third constitutional convention assembled at Des Moines. The Kansas-Nebraska controversy brought about the defeat of the Democratic party in 1854, after it had ruled the state from its beginning.[1] One-third of that triumphant phalanx had deserted and, together with the Free Soilers and Whigs, had formed the Republican party.[2] In the election of delegates to the convention of 1857, the negro suffrage was agitated in some communities,[3] and it was known that many people were in favor of equal political rights to white men and blacks. The suffrage issue did not come to a direct vote in the convention, although several petitions against disfranchisement on account of color were received;[4] but on January 26, there was introduced a resolution that the committee on suffrage be instructed to inquire into the expediency of submitting the question to the vote of the people, and on February 23, a select committee reported a recommendation that the people be permitted to vote directly on the question of expunging "white" from the constitution.[5] A minority report was presented, to the effect that the state of public sentiment was not a matter of doubt, and that the only result of throwing this question into politics, would be "to

[1] *Iowa Constitutional Debates*, 1857, II., p. 677, Clarke of Henry.
[2] *Ibid.*, II., p. 672, Marvin.
[3] *Ibid.*, II., p. 677, Ells; p. 680, Gower.
[4] *Ibid.*, pp. 115, 216.
[5] *Ibid.*, I., p. 45., II., p. 649.

furnish material and food for morbid and forbidding sentiment.[6] The minority further presented, as containing their views, the report on negro suffrage made to the convention of 1844.[7] The views of this document were derided by the Republicans. How could the degraded African, as he was called, ever control the lofty Saxon? How can a race said to be so ignorant, control the ballot-box and absorb the powers of government? The argument of the report implies that, "our sisters and our daughters will refuse the alliance of this boasted, this superior Anglo-Saxon race, and seek husbands among this black race; and our brothers and our sons will turn their backs upon the daughters of the daughters of the Anglo-Saxon, and go to the dusky-browed daughters of the descendants of Ham for their conjugal consorts."[8] What danger is there that negroes will be elected to office? "The negro man who could get elected to any office—must needs be a very Christ in ebony. Do the people need anything to prevent such a casualty, except their own prejudices and their destestation of the black race?"[9] The idea that the privilege of voting would attract free negroes into the state was regarded as preposterous. The climate and other conditions would keep them out of Iowa as out of New England.[10]

These practical admissions of prejudice were confirmed by direct statements, but prejudice was not to be weighed against principle. "I acknowledge with something akin to shame," said Clarke of Henry, "a great repugnance against that injured and degraded race, the African. But — in spite of that feeling which leads me to cry out at times, 'would to God I had the power to transport every one of African descent back to the continent from which the race originated,'—I throw aside my own feelings and prejudices, and say, let us unite together and do right, whatever the consequences—'let justice prevail though the heavens fall.' Now when gentlemen come to me and are so *unkind and ungenerous as to say that I am doing this*

[6] *Ibid.*, II., p. 650.
[7] *Ibid.*, II., pp. 650–651; *Ante*, pp. 102–104.
[8] *Ibid.*, II., p. 663, Clarke of Alamakee.
[9] *Ibid.*, II., p. 677, Clarke of Henry.
[10] *Ibid.*, II., pp. 667, 669, 678, Clarke of Henry, p. 674, Ellis.

for 'the love of the negro,' I tell them that what I do here in this matter I do from a conscientious love of the principles in which I have been nurtured, and under which I have lived all the days of my life." He had lived in New York and had seen colored men vote sometimes for the third party but usually for the Whigs, and when counted out, their ballots "looked and counted just the same as those of white folks, and I presume the gentleman from Des Moines could not even have smelled the difference."[11] Mr. Ells said that a strong prejudice against color existed everywhere in the North, stronger than in the South where, he thought, the feeling of repugnance was not against the black man's race so much as against his state of slavery. There were only three hundred negroes in Iowa, and the question of suffrage was therefore not a practical one, "and I am satisfied that were it not for *carrying out a consistent rule of right action, that no* considerable portion of the people would give any attention to the subject. Let us do right and leave the consequences to God and our country."[12] Mr. Marvin stated: "I hold the acknowledgement of the equal rights of all men to be a sacred principle—I know there are thousands of persons that think so much of the maintenance of this principle, that unless it were presented to them in some shape, they could not be induced to vote for the constitution.[13] Ells said that some of his own constituents held similar views, especially the Scotch Covenanters and Presbyterians, although a majority were opposed to negro suffrage. Out of respect to this majority he did not urge the expunging of "white" in the convention, but merely wished to let the people decide. As for himself: "I am perfectly willing that the right of suffrage should be as broad as the universe of God. I have no fear in trusting any class of men with the right to vote, provided they have the qualifications of manhood."[14] Clarke of Henry, also, had constituents who, like himself, would not vote for the new constitution unless thy could have an opportunity of voting to wipe

[11] *Ibid.*, II., p. 670.
[12] *Ibid.*, I., pp. 674, 675.
[13] *Ibid.*, II., p. 672.
[14] *Ibid.*, II., p. 673.

out the color discrimination.[15] To conciliate those who would maintain principle against prejudice, "though the heavens fall," the question of negro suffrage, it was urged, should be submitted to popular vote.

The referendum was supported, according to Ells, by every Republican except Clarke, of Johnson.[16] The latter's reply reveals the other principles of the party at that time. The Republicans, as a party, did not stand for negro suffrage. They were opposed to extension of slavery. They were opposed to all such laws against negroes, as those which prohibited their giving testimony in courts or prevent them from settling in the state. As for the referendum, Clarke declared that he would not submit to the people a proposition which he himself would not support: "No man believes that it can command a respectable vote in the State. And yet we are wasting time in discussing this subject, and creating odium against ourselves, against the constitution, and against the Republican party, upon a question upon which the party has never taken ground, and in favor of which they are not committed."[17]

This speech opened up a long discussion of party history and party doctrine which showed how closely men associated the negro suffrage question with the sectional strife about slavery.[18] What they considered the aggressions of the South, had stirred up their feelings against the wrong of involuntary servitude. They did not intend to take away the master's property, but they would do their best to make it worthless to him by forbidding him to carry it into new territory.[19] They had no right to interfere with slavery where it existed, but they would do it as much indirect injury as the letter of the constitution would permit. "We have no right to interfere with it. But we can raise our voice against it on every occasion. We can refuse, here in the free state of Iowa, to bolster it up by becoming its apologists. And so far as we have the power and the

[15] *Ibid.*, II, 669.
[16] *Ibid.*, I., p. 675.
[17] *Ibid.*, II., pp. 675, 676, also p. 680, Peters.
[18] *Ibid.*, II., pp. 681–911.
[19] *Ibid.*, II., pp. 700, 701, Pauvin.

constitutional and legal right, so far should we go against it."[20] They did not go so far to say that the constitution was a "league with hell and a covenant with death"; but they were sure that any thing like cheerful fulfilment of certain constitutional obligations, such as the return of fugitive slaves, was morally wrong. What we now know to have been the consequence of this attitude was pointed out by a Democrat, Mr. Hall, who mourned the good old days when the Whig and Democratic parties were national in extent, dividing between them every county, township or neighborhood, North or South, and contrasted the old order with the existing sectional division caused by the clash of interests and the clash of moral convictions. "If this nation is to be brought into conflict, if this universal sentiment which pervades the north, is to be brought into collision with the universal sentiment which exists in the south, then a fig for this union!"[21] It was charged, especially by those Republicans who were apostates from Democracy that, at the dictation of the South, the Democratic party had changed its position on the slavery question, and that the South no longer defended slavery as a curse inflicted upon Ham and his descendants but as "right in itself" and upon the ground "that the laboring classes properly belong to the capitalists."[22] In view of these considerations, Mr. Bunker declared that he had changed his mind about the color discrimination and was now in favor of removing it: "I really think that we would suffer more by continuing this word 'white' in the constitution, and we would be in far greater danger of sapping the principles of civil liberty, than we would by allowing the few negroes who may be in the state the privilege of voting at our elections.[23] No doubt the same mental process was reversing the convictions of others. It was pointed out that the opinions of men were making rapid progress, and suggested that the Republicans as a reform party might yet bring the people to a

[20] *Ibid.*, II., p. 682, Edwards.
[21] *Ibid.*, II., pp. 687, 688, 690.
[22] *Ibid.*, II., p. 709, Clarke of Alamakee, pp. 889–901, Clarke of Johnson, p. 907, Ellis, p. 911, Bunker.
[23] *Ibid.*, II., p. 911.

most advanced position.[24] In the light of events of the subsequent decade, the words of Mr. Ells were prophetic: "The Republican party of this country, sir, is emphatically a progressive party; and any man or set of men who attempt to prescribe limits to its political action for all coming time, must set their bounds far into the misty future, or they will find themselves overwhelmed with the 'ground swell,' now setting inland from the mighty ocean of moral truth. That which satisfies the people today will become obsolete and be cast off tomorrow. The wonderful developments made in the moral and political, as well as the natural sciences, within the last twenty years, admonishes us to be careful how we cripple ourselves by the adoption of any short sighted policy of political action."[25]

The Democrats made an attempt to substitute for the referendum provision an article: "No negroes or mulattoes shall come into the State after the adoption of this constitution," but were defeated by a vote of 25 to 8.[26] Then by 20 to 13 the convention adopted the resolution which referred to the people the question of striking "white", from the article on suffrage.[27] The nativity of this convention differed but slightly from that of the similar bodies of 1844 and 1846, although there was a somewhat smaller proportion of southern born members than in the convention of 1846;[28] but the relative strength of parties had been just about reversed. This is not the only evidence of how opinions and sentiments had changed; in 1848 and 1852, the Free Soil vote of Iowa had been less than one-twentieth of the total vote cast at the presidential elections of those years; in August, 1857, the negro suffrage article was supported by probably one-fifth of a total vote that was four times as large as the total vote of 1852.[29] But Iowa was still far from her advaned position of Reconstruction times.

[24] *Ibid.*, II., p. 676, Clarke of Johnson.

[25] *Ibid.*, II., p. 675.

[26] *Ibid.*, II., p. 915.

[27] *Ibid.*, II., pp. 916, 1095.

[28] Maine 2, Massachusetts 1, Connecticut 3, New York 7, Pennsylvania 3, New Jersey 1, Ohio 7, Indiana 2, Maryland 1, Virginia 4, Tennessee 1, Kentucky 4. *Ibid.*, I., p. 4, *Ante.*, pp. 77, 82.

[29] *Whig Almanac*, 1849, p. 64; for 1853, p. 62; for 1858, p. 62; James, *Johns Hopkin's Historical Studies* vol. XVIII., p. 225. Madison, (Wis.) *Argus and Democrat*, September 18, 1857. James says the colored suffrage article was

Minnesota, 1857

The events connected with the framing of the first constitution of Minnesota show clearly the attitude of the two chief political parties in that state. The election of delegates to form a constitution was very close. The Democrats thought at first that they had swept the territory but later the returns showed that the Republicans had elected many of their candidates. Apparently some of the seats in the convention were in dispute, for when the delegates assembled at St. Paul, the fifty-nine Republicans, in order to control the convention, stayed up all night and appropriated the hall in which the convention was to meet, as soon as the doors were opened in the morning. The fifty-two Democrats had proposed to the Republicans to organize the convention at noon, and when they found their opponents in possession, they met in a separate convention and drew up another constitution. The difficulty was finally settled by a committee of conference which reported for ratification by the two bodies a constitution substantially the same as the one drawn up in the Democratic convention.[30]

The report of the Democratic convention's suffrage committee was read August 12, 1857. It confined the elective franchise to white citizens and civilized Indians. A motion was made to strike out the word "white" before "citizens" on the ground that the Supreme Court of the United States in the Dred Scott case, had held that negroes were not citizens, and that therefore the word "white" was useless; but other members doubted whether the question of negro citizenship had been settled definitely enough to make it safe to leave out the color discrimination. The only other reference to negroes seems to have been

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defeated by 40,000. The total vote for and against the constitution was 79,273. On the basis of the latter figures, the *Argus and Democrat* estimated that the vote on striking out "white" probably stood 60,000 to 20,000. It is not, however, probable that this article called out so large a vote as the constitution. In the convention a member estimated the probable vote for negro suffrage as low as four or five thousand. *Debates*, II., p. 911. Bunker.

[30] *Minnesota Convention Debates*, 1857, pp. 372, 373, Hayden; *Minnesota Constitutional Debates*, 1857, pp. 676 and 1, *Reporter's Preface*. The former is the record of the proceedings of the Republican convention; the latter that of the Democrat convention.

made when the militia article was under discussion. One speaker said that undoubtedly everyone present was willing to admit persons of mixed white and Indian blood to the militia, but he would exclude blacks and mulattoes, by providing that the state militia should be composed only of qualified voters.[31]

In the Republican convention, also, the suffrage article as reported on August 6, contained the word "white". The arguments in favor of the motion to expunge the obnoxious discrimination were along familiar lines. "All governments among men derive their just powers from the consent of the governed," said Mr. Messer, a native of New Hampshire, "I am not disposed to discuss here whether colored persons are men or not. I believe it is conceded in this body, that an immortal spirit, a human soul, may exist under a black, an olive, or a white skin." "The great object of a constitution should be to protect the weak," said Mr. Hudson, a New Yorker, "the great principle involved in the amendment is, equal rights to all men. The opposite is Aristocracy and Monarchy." Mr. North, who also was born in New York, explained that before the Revolution, it had been customary to insist on the rights of Englishmen: "But when the philosophers of the Revolution were called upon to base themselves upon principles which would justify their action, they made a platform as broad as the whole human family." A color discrimination would be "an absolute wrong, which we have no right to inflict upon any class of our fellowmen. There is a standard of right eternally fixed, by which all law and law makers are to be tested."[32] Astonishment was expressed that men of foreign birth, who had just acquired the right to vote, should sign a report which kept that right from the black man.[33] Colored men, at least the mulattoes, who had in their veins of the best Virginian blood, were certainly as good as the half-breed Indian children of gamblers and whisky sellers, whom it was proposed to enfranchise.[34] The prejudice against Africans was not uniform. "This truth is illustrated

[31] *Minnesota Constitutional Debates,* pp. 442, 427, 428, 154.

[32] *Minnesota Convention Debates,* p. 337, Messer, pp. 342, 343, Hudson, p. 350, North.

[33] *Ibid.,* p. 339, Mantor.

[34] *Ibid.,* p. 360, North. p. 341, Foster.

by the manner in which children of both races play together in the earlier years of infancy. This prejudice is not developed until they are taught that there is a social inequality." The convention should take the initiative and lead public opinion on the question of giving negroes their just rights.[35] It was urged that colored men had fought in the battles for independence, and in the war of 1812, and that before and after the victory of New Orleans, General Jackson had praised the courage of the negro: "His blood equally with that of the white man enriches the soil of our common country."[36] On the men who advanced these arguments, Mr. Galbraith, a native of Pennsylvania, made this comment: "They—declare that a man's highest state of happiness is in his right to vote. They seem to assume that the chief end of man is voting. They argue, and put their whole stress upon it, that the negro should vote at all hazards." He continued to the effect that negroes could not be assimilated: "Gentlemen may cry out in their affection for the poor degraded African what they please, yet he remains among us without friends. The seal of degradation is upon the poor downtrodden African, and years and ages must pass before the seal can be removed."[37]

The motion to strike out "white" was defeated by a vote of 34 to 17.[38] But this vote did not indicate that only seventeen members were in favor of negro suffrage: seven others declared themselves in favor of removing the color distinction, but did not vote for the motion either because they had been absent or because the people would not sustain them.[39] One member estimated that only one-tenth of the convention were opposed to negro suffrage from conviction, and another said that the question had been considered in a caucus of the members of the convention, and that not more than six had been opposed on principle to giving negroes the elective franchise.[40] It was, however, feared that the constitution would be rejected at the

[35] *Ibid.*, p. 371, Perkins.
[36] *Ibid.*, p. 337, Messer, pp. 355, 356, North.
[37] *Ibid.*, pp. 343, 344.
[38] *Ibid.*, p. 366.
[39] *Ibid.*, p. 341, Foster, p. 364, Balcombe, p. 393 Hudson, p. 395, Bittings, p. 394, Robbins, p. 398, Aya Coombs.
[40] *Ibid.*, p. 365, Balcombe, p. 361, North.

polls, if the word "white" should be eliminated, and it was urged that the matter of gravest immediate concern was to help restrict the expansion of slavery by sending anti-slavery Senators and representatives to Congress.[41] "I do not believe," said Foster, "the people are quite up to the highest mark of principle: the force of prejudice is yet so strong among them... A great contest is going on between the antagonistic powers of slavery and freedom, for the plains of the West. ... If we go to Congress with two Senators upon the floor of the Senate and our members in the House, all upon the side of freedom, we accomplish more for the cause of freedom—freedom for the white and freedom for the black—than we should be engaging here in a vain contest upon an abstraction." It was agreed, however, that there were many people in the territory opposed to the color discrimination and that it would be safest to conciliate them by submitting the question of striking out "white" to popular vote.[42] An appropriate resolution was accordingly adopted but was lost in the conference with the Democratic convention.[43] It is apparent, therefore, that a very considerable element of the Republican party in Minnesota desired to expunge all color discriminations from the text of the state constitution, and that already, on this question, the politicians were in advance of the people. In this as in other conventions, the liberal sentiment on negro questions was in large measure due to the potent influence of New York and the New England States: thirty-seven of the fifty-nine members of the convention and fifteen of the seventeen who voted to strike out the word "white" were natives of those commonwealths.[44]

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[41] *Ibid.*, p. 365, Balcombe, p. 394, Robbins, pp. 341, 366, Foster.

[42] *Ibid.*, p. 338, Messer, p. 361, North, p. 360, p. 360, Wilson, p. 394, Robbins, p. 400, Cleghtern.

[43] *Ibid.*, p. 572.

[44] The nativity of the convention was: New York 11, Maine 4, Massachusetts 5, Vermont 5, New Hampshire 10, Rhode Island 1, Ohio 4, Pennsylvania 6, New Jersey 1, Indiana 1, North Carolina 1, Virginia 2, England 1, Ireland 1, Scotland 1, Germany 1, Prussia 1, Sweden 1, Canada 1; of those who voted to expunge "white": New York 5, New Hampshire 5, Massachusetts 3, Vermont 1, Maine 1, North Carolina 1, Scotland 1.

Wisconsin, 1857

The year 1857 also saw the negro suffrage question submitted a third time to the voters of Wisconsin. In accordance with the power granted to the Legislature by the constitution of 1848, a bill was introduced in the Senate, January 21, 1857 to provide for a popular vote on extending the suffrage to colored persons. A committee reported, a week later, that it was doubtful whether the vote of 1849 on the same question had not conferred the elective franchise on negroes, and that it was inexpedient to take another popular vote until the legal effect of the former one should have been judicially determined; but the bill was nevertheless passed by a vote of 15 to 5.[45] The Assembly committee, on March 2, proposed an amendment providing that the question of woman suffrage should also be submitted to the people, and made a long report. The Assembly immediately adopted the amendment by a vote of 41 to 29 and passed the bill, 40 to 33, but on the next day receded from the amendment and left the bill in its original form.[46] The report signed by David Noggle and J. T. Mills discusses both the question of the negro suffrage and that of woman's suffrage. With reference to the former the committee denounced: "the barbarous and unmanly dogma that human rights are qualities of color." They adverted to the difficulty of deciding who were white persons, and proceeded in a spirit of the most expansive liberality: "The Holy Bible tells us the diversity of tongues in the early ages, repelled the tribes of mankind from each other, and snapped the fraternal band of unity; but the steamship verifying the strange prediction that there shall be no more sea; the railroad trains traversing the girdle of the earth like new formed satellites; the submarine telegraph that fills the deep with the consciousness of human thought—prove that the period of clannish prejudice, of national animosities, of religious bigotry, of cutaneous aristocracy is passing away. There may be fossil men among the active living masses of the

[45] *Wisconsin Senate Journal* 1857, pp. 59, 115, 197.
[46] *Assembly Journal*, 1857, pp. 711, 712, 751.

present time, stubborn conglomerates of obsolete ideas, drifted and rolled like lost stones in the path-way of human progress; but it is a blunder of destiny that some men are born in an age to which their natures are not adapted. Eagle-eyed science does not recognize the distinctions of color. In her temple the swarthy Euclid stands by the side of the pale browed Newton. * * * Let him who glories in the fairness of his hide, quarrel with a tallow candle as to which is the whiter, and therefore the most noble. The present earnest and active age has no time to settle the magnificent contest. But who is excluded on account of color by our constitution? Is the Chinese, the Spaniard, the Moor, the Hindoo, the Turk, or all of them excluded? Intercourse has brought, and will continue to bring in increasing numbers, emigrants from all these countries to our shores. If it is the African blood we prescribe, does the constitution apply to emigrants from all nations of Africa? If the negro is the Amalek of our antipathy, who shall tell us how much of the accursed blood is sufficient to expel him, like the leper, from the body politic?''[47]

The question of suffrage extension was much more prominent in the political controversy preceding the fall election than it had been in 1846 and 1849. The Democratic party was unequivocally opposed to giving black men the privileges of whites. On July 10, the Madison *Argus and Democrat*, discussed the Declaration of Independence, recalled that Washington held slaves, and concluded that the declaration had no reference to negroes. Later the whole Democratic press assaulted Governor Bashford because he had appointed a colored man to the office of notary public, and when the Democratic state convention met, they announced their position on the suffrage issue in a resolution: ''That we are unalterably opposed to the extension of the right of suffrage to the negro race, and will never consent that the odious doctrine of negro equality shall find a place upon the statute books of Wisconsin.''[48] It was a safe issue for the Democrats, and they did not fear to define their position. They argued that it involved the questions: ''Shall

[47] *Appendix to Assembly Journal*, 1857, vol. II., next to last document.

[48] Madison *Argus and Democrat*, July 10, August 1, and September 5, 1857.

negroes be admitted to the social circles, to our tables and firesides? Shall negroes marry our sisters and daughters, and smutty wenches be married by our brothers and sons? Shall we amalgamate?" They denounced negro equality as "odious, unnatural and wrong," attacked Mr. McMynn, a candidate for the office of superintendent of schools because he would have white children "placed side by side on the seats of the school room, and taught in the same classes with the descendents of blackamoors and Hottentots," and opposed negro suffrage "because it is a scheme to bring the white race down to the level of the negro, because political equality must necessarily lead to social equality of the races, because negro suffrage and amalgation go hand in hand."[49]

The position of the Republican party on the negro suffrage question was not so unmistakable. It was the Republicans who submitted the issue to the people, and during the summer of 1857, most of their newspapers argued for equality at the ballot-box. Yet it must have been evident that the voters of the state would never ratify the proposed extension of suffrage to the African race. The crushing defeat of the similar measure at the August election in Iowa warned the politicians as to the real state of public sentiment. When the Republican party convention assembled early in September, it disposed of the suffrage question by an ambigious resolution: "That we are utterly hostile to the proscription of any man on account of birthplace, religion or color." Under the circumstances, even this was bold language, and according to the *Argus and Democrat*, probably would not have been adopted but for the insistence of Sherman Booth, "and his old abolition guard." Many of the prominent Republican newspapers, however, including the Berlin *Courant*, the Omro *Republican*, the Fond du Lac *Commonwealth*, the River Falls *Journal*, the Racine *Advocate*, the Columbus *Journal*, the Viroqua *Times*, the Oshkosh *Democrat*, and the Milwaukee *Sentinel*, continued somewhat mildly

[49] *Ibid.*, Aug. 1. Aug. 3. Sept. 11. The *Weekly (Madison) Wisconsin Patriot*, Aug. 15 and Sept. 12. To bear out the last charge, the *Argus and Democrat* refers with indignation to a case in Kenosha of marriage between a white woman and a negro.

to advocate negro suffrage and insisted that the Republican platform had endorsed it. Booth in his *Free Democrat,* asserted that the platform "does contain the free suffrage, in claiming equal rights for all without regard to color," and "that this must be construed as an expression of sympathy on the part of the Convention, with the proposed extension of suffrage" and "that it is to that extent an endorsement of the measure." The Berlin *Courant,* predicted: "Just as sure as this measure of justice is denied by the Republicans, just so sure is the death warrant of our party sealed;" and the Fond du Lac *Commonwealth,* hoped that "the party is not so hypocritical as to spurn this doctrine." Byrd Parker, a colored man, and others of his race, and also a number of white lecturers, made speeches to secure votes for equal suffrage and were heartily endorsed and praised by several Republican newspapers. Other papers, like the *Grant County Herald,* came out in opposition to negro equality, and others still avoided the question. The Fond du Lac *Commonwealth,* rebuked the Madison *State Journal* for its "cowardly talk" on the subject. The rebuke was deserved: in stating "the issues of the campaign" on August 29, the *Journal* did not mention the negro question: on September 4, after the convention of the Republicans had met, it declared that "the platform is a noble one," and that "its planks are every one of them sound;" on September 7, it objected to the assertion of the *Argus and Democrat* "that color is a ground for proscription, so far as the rights of suffrage and social equality go;" but it never ventured an unqualified advocacy of negro suffrage. The *Argus and Democrat* charged that the Republicans had abandoned their issues, and declared that negro suffrage had "not a friend to support it as a political measure," and that "a Republican convention dare not endorse it, or a Republican candidate go before the people upon it." The editor of this journal, nevertheless, felt aggrieved that the Republicans had not insured Democratic victory by adopting a fatally unpopular principle, and in the same issue, September 11, he proclaimed: "The Republican party now proposes to confer the right of suffrage and the sacred franchises of citizenship upon the black race, which would render them eligible

to the highest offices in the State, and be the first step for their admission to social equality." Later, October 1, he adduced the fact that "not a leading Republican paper in the State has uttered a solitary word against the negro suffrage plank in the Republican platform," as evidence that the Republican party was identified with negro equality. The people refused to take that view of the situation; in November, Alexander Randall, the Republican candidate was elected by a bare majority in a total vote of about 90,000; but the proposition to extend the elective franchise to colored persons, on which there was cast a total of 67,656 votes, was defeated by 40,106 to 27,550. It is significant, however, that over half the Republican party voted for colored suffrage, that seventeen counties gave majorities for it, and that in some of them, notably Walworth, Racine, Waukesha, Calumet, Winnebago and Fond du Lac, almost the entire Republican vote was cast for it.[50]

Oregon, 1857

In the far West, there was probably no more demand for negro suffrage, than there had been in the California convention of 1849. In 1857, Oregon adopted her first constitution, with the usual color discrimination in the suffrage article, and submitted to the people along with the constitution, the separate questions of slavery and of the immigration of free negroes. The voters ratified the constitution by 5710 to 2184, the article forbidding slavery by 6361 to 1382, and the article forbidding the immigration of free blacks by 5479 to 651. In the older states the friends of the negro were nearly always able to secure repeal, or the defeat, of laws restricting immigration, long before they could bring about the adoption of impartial suffrage. It is, therefore, a safe assumption that, in 1857, there was in Oregon, practically no sentiment whatever in favor of granting electoral privileges to negroes.[51]

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[50] The Wisconsin *Argus and Democrat*, July 21, August 13, Sept. 5, 10, 11, 14, 16, October 1; The Madison *State Journal*, August 29, September 4, 7; *Whig Almanac* 1858, pp. 62, 63.

[51] *Journal of the Oregon Constitutional Convention*, 1857, pp. 58, 59, 60, 86.; *Whig Almanac*, 1858, p. 63.

Dred Scott Decision and Citizenship in New England

In the extreme East was to be found nearly the exact antithesis in popular feeling on negro questions. The development of New England's attitude on the suffrage is not easy to trace. Maine refused to adopt a color discrimination in the convention of 1820-1821, which discussed other phases of the voting privilege, but did not refer to a color qualification, and accepted without question a suffrage article from which the color distinction was absent.[52] In Rhode Island, negroes were expressly disfranchised by the Dorr *pseudo*-constitution of 1841, but not by the instrument adopted in 1842.[53] An attempt in Connecticut, in 1846, to strike out the word "white" which had been adopted in 1818,[54] was overwhelmingly defeated.[55] In the Pennsylvania convention of 1837–1838, one member said he had heard of a colored justice of the peace in Maine.[56] Chancellor Kent, in the 1848 edition of his commentaries, the last one that could have been revised by himself, retained the statement that in no part of the country except Maine, did free colored persons, "in point of fact, participate equally with the whites, in the exercise of civil and political rights."[57] It may be that in some instances, negroes were excluded from the ballot box on the ground, that, as some courts held, they were not citizens,[58] and it cannot be doubted that the race prejudices against negroes persisted even in New England.

In the Massachusetts constitutional convention of 1853, an attempt was made to secure a provision that colored men should be admitted to the militia, and probably would have succeeded if there had been a state militia distinct from the national militia in which the Federal statutes included none but white men. In the discussions of this question, a member said: "We know that so far as colored citizens are concerned, there

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[52] *Ante*, pp. 25.
[53] *Ante*, p. 72.
[54] *Ante*, p. 24.
[55] *Ante*, p. 78.
[56] *Pa. Con. Debates*., V., p. 451, Maclay.
[57] Kent's *Commentaries*, II., p. 258; Weeks, Pol. Sci. Quar. IX., p. 679.
[58] *Ibid.*, p. 677.

is a repugnance which * * * it would be difficult to get over among the soldiers of our companies."[59]

It was, however, not considered necessary to give negroes civil or political rights; it was agreed that they already possessed them. One member said: "In fact there is nothing to debar the colored person from receiving all the civil and political rights that are possessed by every other citizen of Massachusetts. That I believe is the fact, and it is one of which Massachusetts may well be proud." Henry Wilson, already prominent as an anti-slavery leader and afterward one of the foremost champions of negro suffrage, said: "The Constitution of the Commonwealth knows no distinction of color or race. A colored man may fill any office in the gift of the people. A colored man may become the 'supreme magistrate' of Massachusetts."[60] In the Minnesota Republican constitutional convention of 1857, Mr. Colburn, who was born in New Hampshire said of his native state: "The doctrine of negro suffrage prevailed there, and negroes were permitted to vote," and declared that a like situation existed in Massachusetts.[61]

What significance, then, is to be attached to the fact that New Hampshire in 1857, and Vermont in 1858, passed laws that guaranteed the rights of citizenship to negroes? The enactment of these statutes has been interpreted to mean that the legislatures were trying to establish the negro's right to vote.[62] Both statutes contain sections, providing that neither descent from an African, whether slave or not, nor color of the skin, should disqualify anyone from becoming a citizen or deprive any person of a citizen's full privileges. The New Hampshire law, which was passed first, also contains a section to the effect that the suffrage provisions of the *Compiled Statutes* should "not be so construed as in any case to deprive any person of color, or of African descent, born within the limits of the United States, and having the other requisite qualifications, from vot-

[59] *Massachusetts Convention Reports*, 1853, I., p. 425, II., pp. 72, 75, 83; III., p. 647.

[60] *Ibid.*, II., pp. 73, 79.

[61] *Minnesota Convention Debates*, p. 364.

[62] Weeks, *op. cit.*, p. 677. "New Hampshire found it necessary in 1857, and Vermont in 1858, to enact that negroes should not be excluded from the ballot."

ing at any election; but such person shall have and exercise the right of suffrage as fully and lawfully as persons of the white race." These provisions can well be construed as intended to apply especially to escaped slaves or their descendants, and such a construction is in accord with the general purpose of the other sections of the law to provide for trial by jury of all colored persons who might be claimed as fugitive slaves, and to hinder the execution of Federal law of 1850.[63] It may have been that negroes who had recently came into the state from the South were not regarded as lawful voters by the election officers, and that other negroes were occasionally hindered in their exercise of the right to vote. But that, in the New England states where no color discriminations existed, where the anti-slavery men did not find it necessary to agitate the negro suffrage question in state constitutional conventions, and whence came the abolition orators to the West, negroes were generally kept away from the ballot box, is inconceivable in view of the situation in other states where negro voting was illegal.

In spite of the law, colored men voted in Detroit, Michigan, as early as 1844, neither political party making objection.[64] Fourteen years ago (1906) it was said: "Almost any old citizen of Wisconsin can cite instances where colored men, although not legally entitled to vote, voted regularly; and a Milwaukee newspaper a few months ago, recorded the death of a negro who had been on a jury before the War of Secession."[65] In Ohio, the State Supreme Court repeatedly held that a person with a preponderance of Caucausian blood was to be legally considered white and if otherwise qualified had the same right to vote as men of pure white blood; and in 1859 the Court declared unconstitutional a law passed April 2, of that year, forbidding election officers to receive votes from any man with a "visible admixture" of African blood.[66] It is entirely cred-

[63] *Laws of New Hampshire*, passed June Session 1857. Ch. 1965. *Laws of Vermont*, 1858, pp. 43, 44.

[64] *Infra*, p. 95.

[65] Baker, *op. cit.*, p. 12.

[66] *Gray v. Ohio*, p. 4. *Hammond*, p. 353; *Williams v. School Directors, Wright* p. 579; *Jeffries v. Ankeny*, Dec. Term, 1842; Thacker v. Hawk, vol., II, Ohio, p.

ible that a flood of mulattoes poured in, claiming the legal "whiteness," and that in strongly Free Soil districts, many colored people unlawfully exercised the right of suffrage.[67] In one instance, already noted, a colored man, who may have been more than half white, was elected a town clerk in Ohio.[68] It is probable, therefore, that in New England, where the law sanctioned negro voting, colored persons who had been born there exercised the right of suffrage unquestioned, and it is possible that the statutes passed by New Hampshire and Vermont were partly intended to remedy the doubtful position of recent comers.

The main purpose, however, in passing these laws was to protest against the recent decision of the United States Supreme Court in the Dred Scott case. In his message to the New Hampshire legislature, June 4, 1857, Governor Haile deplored the grave consequences of the doctrine laid down by the majority of the court, that free negroes were not citizens of the United States. "State legislatures have fortunately", he continued, "power to admit to the privileges of citizenship, and to protect those citizens, to whom such privileges are denied under the declared law of the United States. When the highest tribunal in the country declares that citizenship is made to depend upon mere color or race, the race prosecuted should have their minds relieved from all doubts concerning their rights under the laws of the State. With this view, and by way of protest against a principle contrary to the spirit of our institutions, it may be expedient to declare what is now true, that, under our local law, all men of whatever grade, color or race, if injured, or unjustly deprived of their property or freedom may at least sue for redress and be heard in our courts of justice."[69] In accordance with this suggestion, the act declaring the rights of colored men was passed by a vote of 184 to 114

376; *Lane v. Baker et al.*, vol., 12, Ohio, 237; *Chambers v. Stewart*, vol., II., Ohio, p. 386; *Stewart v. Southard*, vol., 17, Ohio, p. 402; *Anderson v. Millikin*, 9, *Critchfield*, p. 568

[67] *Denton's report to Michigan Senate.*, 1845, *Documents*, etc., no. 15.

[68] *Ante*, p. 105.

[69] *New Hampshire House Journal*, 1857, pp. 55, 56.

in the House,[70] and a vote of 6 to 4 in the Senate.[71] The negro question was also raised in the case of a bill for remodelling the state militia from which the House expunged the word "white" by a vote of 138 to 126.[72] In October of the same year, the Governor of Vermont, Ryland Fletcher, also called attention to the hatefull doctrine of the Dred Scott decision that masters could carry and hold their slaves anywhere in the United States, and the legislature passed resolutions of condemnation. In October, 1858, the new governor, Hiland Hall, repeated the denunciations of his predecessor at the opening of the session during which the legislature passed a law similar to that of New Hampshire.[73]

New York, 1857

Meanwhile the negro suffrage question had come up again in the State of New York. Several petitions that the question be submitted to the people were sent to the legislature during the session of 1857,[74] and in March both houses passed a bill providing for a popular vote at the fall election.[75] However, perhaps because the Republicans feared the political effects of the certain defeat of the measure, the proposed amendment was not published three months before the elections, as the constitution required, and no popular vote was taken.[76] At the next biennial session in 1859, the legislature passed another bill submitting the issue of negro suffrage to the people at the general election of 1860.[77] In the stress of a momentous campaign, little attention seems to have been given to this minor question; the New York *Tribune*, which had championed the cause of the black man in 1846, referred little, if at all, to this matter in the year of Lincoln's election to the Presidency. Neverthe-

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[70] *Ibid.*, pp. 299–301.

[71] *Journal of the Senate*, 1857, p. 137.

[72] *House Journal*, pp. 387, 389.

[73] *Vermont Senate Journal*, 1857, pp. 27, 28, 29; *House Journal*, 1858, pp. 31, 32, 33, 305.

[74] *House Journal*, pp. 86, 226, 433, 636, 656, 757.

[75] *Sen. Journal*, pp. 353, 354. The vote in the Senate was 21 to 5. *House Journal*, pp. 863, 864. The vote in the House was 75 to 27.

[76] Wisconsin *Argus and Democrat*, Sept. 11, 1857.

[77] *House Journal*, p. 752.

less, the vote on the subject was comparatively large; Lincoln defeated Douglass by 362,646 to 312,510, and the proposed extension of the elective franchise by abolishing the property qualification for colored voters was rejected by 337,984 to 197,503.[78]

Relation of the Movement to Current Thought and Politics

The negro suffrage agitation before the Civil War was one phase of the most important of "idealistic political movements" in American History. The beginnings of the abolition movement had accelerated the growth of sectional antagonism between North and South. Political controversy in turn influenced men's ideals. The Declaration of Independence became more and more potent in determining the thoughts of men on negro questions, and they began, not only to vote for giving negroes the elective franchise, but actually to treat black men with more consideration. In Illinois, the growth of anti-slavery sentiment in the northern part of the state resulted in opening the schools to black men's children.[79] The Massachusetts legislature, in 1843, showed faith in the theory that negroes differed from white men only in the color of the skin by repealing the law which forbade marriage between whites and blacks.[80] The belief in freedom and the resentment of southern aggression were also manifested in numerous statutes passed by northern states, especially during the later fifties, to prevent the enforcement of the fugitive slave laws.[81] Thus did humanitarian sentiment and political enmity support and strengthen each other. Perhaps the best index of the progress of humanitarian idealism, is the growth of sentiment in favor of negro suffrage from the Pennsylvania discussions of 1837 and 1838 down to the election of Lincoln. The movement to grant political privileges to the black man, almost non-existent in 1840, had sprung up and grown strong in the Northwest

[78] *Tribune Almanac*, 1870, p. 53.
[79] Harris, *Negro Servitude in Illinois*, p. 231.
[80] Hurd's *Law of Freedom and Bondage*, II., p. 36.
[81] *Ibid.*, II., pp. 32, 35, 40, 50, 51, 47, 140, 142, 119 120, 121.

until it seemed not far from the point of furnishing a principle of the Republicans in Iowa, Minnesota and Wisconsin, had continued to secure converts in New York so that the proportion of voters who favored equal suffrage grew from one-sixth in 1846 to more than one-fourth in 1860, and in New England, had produced decisive manifestation that the majority of the people's representatives were anxious to guard against any infringement of the black man's rights to vote. There was indeed a great difference between the negro suffrage question before the war and the negro suffrage question after the war. The question presented to the northern people before 1860 was whether they would show their love of abstract, principle and their feelings against slavery by permitting a small number of colored men, who could not possibly exercise any determining political influence, to come to the polls and deposit paper ballots along with the whites. The question presented after the war was whether the North should compel the South to commit the mending of its shattered prosperity to the government of a majority, which had been embittered by the memory of four years of bloodshed, and which was mainly composed of newly emancipated, hopelessly ignorant negro slaves. The revolution in public opinion brought about by the Civil War included almost as great a change of sentiment on negro suffrage as on any other question. But in accounting for the Reconstruction Act of 1867, and for the Fifteenth Amendment, the tendency to ignore minorities ought not to be permitted to hide the fact that before the war began in two such representative states as Wisconsin and New York, the principle of negro political equality had been endorsed by more than half the voters of the victorious political party.

BIBLIOGRAPHY

GENERAL WORKS.

Annals of Congress.

American Annual Cyclopedia, Appleton, New York.

Bishop, C. F., *History of Elections in the American Colonies, Columbia University Studies in History,* etc., vol. III. pp. 1-297.

The Congressional Globe.

Geer, C. M., *The Louisiana Purchase,* in *History of North America,* edited by G. C. Lee, Philadelphia, 1904.

Hinsdale, B. A., editor, *Works of James Abram Garfield,* 2 vols., Boston, 1882.

Hurd, J. C., *The Law of Freedom and Bondage in the United States,* 2 vols., Boston and New York, 1862.

Kent, J., *Commentaries on American Law,* [12th edition, O. W. Holmes, ed.], Boston, 1873.

Locke, M. S., *Anti-Slavery in America (1619–1808), Radcliffe College Monographs,* No. II, Boston, 1901.

McKinley, A. E., *The Suffrage Franchise in the Thirteen English Colonies in America,* Philadelphia, 1905.

McPherson, E., *Political History of the United States during the Period of Reconstruction,* Washington, 1875.

The New York Weekly Tribune, 1846.

Nell, W. C., *The Colored Patriots of the American Revolution,* Boston, 1855.

Niles, H., *weekly Register.*

Poore, B. P., *Federal and State Constitutions, Colonial Charters, and other Organic Laws of the United States,* 2 vols., Washington, 1878.

Rhodes, J. F., *Negro Suffrage and Reconstruction,* Massachusetts Historical Society, *Proceedings,* 2d Series, Dec., 1904, pp. 465–467.

Smith, T. C., *The Liberty and Free Soil Parties in the Northwest,* New York, 1897.

Smith, W. H., *A Political History of Slavery,* New York and London, 1903.

Statistical View of the Population of the United States, Washington, 1835.

Thorpe, F. N., *Constitutional History of the American People,* 2 vols., New York, 1898.

Tribune Almanac, 1870.

Weeks, S. B., *The History of Negro Suffrage in the South, Political Science Quarterly,* IX, 673 ff.

Whig Almanac, 1846-1858.

[Wright], *Views of Society and Manners in America,* London, 1821.

WORKS ON FEDERAL LEGISLATION.

Benton, T. H., *Abridgement of Debates,* 16 vols., New York, 1861.

United States Statutes at Large, 5 vols., Boston, 1845.

CALIFORNIA.

Report of the Debates in the Convention of California, on the Formation of the State Constitution, 1849, Washington, 1850.

CONNECTICUT.

Journal of the Convention of 1818, printed in 1873, by order of the General Assembly.

ILLINOIS.

Fishhack, M. McC., *Illinois Legislation on Slavery and Free Negroes, 1818 to 1865, Transactions* of the Illinois State Historical Society, 1904, pp. 414-432.

Harris, N. D., *Negro Servitude in Illinois,* Chicago, 1904.

Illinois Constitutional Convention, 1847, Springfield, 1847.

Journals of the Senate and House of Illinois, 1847.

INDIANA.

Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana, 1850, [Fowler, H.], Indianapolis, 1850.

IOWA.

Shambaugh, B. F., *History of the Constitution of Iowa,* Des Moines, 1902.

[Shambaugh, B. F., Compiler], *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*, Iowa City, 1900.

Debates of the Constitutional Convention of the State of Iowa, 1857, Davenport, 1857.

MAINE.

Journal of the Constitutional Convention of the District of Maine, etc., 1819-20, printed by Fuller and Fuller in 1856.

The Debates, Resolutions, and Other Proceedings of the Convention of Delegates, etc., *in Maine*, Portland, 1820.

MARYLAND.

Brackett, J. R., *The Negro in Maryland*, Baltimore, 1889.

Brackett, J. R., "*The Status of the Slave*," in Jameson, J. F., *Essays in the Constitutional History of the United States*, Boston and New York, 1889.

The Laws of Maryland, 1682-1799, revised by W. Kilty, 2 vols., Annapolis, 1799 and 1800.

Scharf, J. T., *History of Maryland*, Baltimore, 1879.

The Laws of Maryland, revised by Virgil Maxcy, Baltimore, 1811.

The Laws of Maryland, revised by W. Kilty, T. Harris, and J. N. Watkins, 1817. [Title page lost.]

Latrobe, J. H., *Memoirs of Banjamin Banneker*, read May 1, 1845, *Maryland Historical Society Publications*, 1845, pp. 5 to 16.

MASSACHUSETTS.

Journal of the Debates and Proceedings in the Convention of Delegates chosen to revise the Constitution of Massachusetts, 1820 to 1821 [Boston Daily Advertiser], Boston, 1821.

Moore, G. H., *Notes on the History of Slavery in Massachusetts*, New York, 1866.

Official Report of the Debates and Proceedings, in the State Convention, assembled May 4, 1853, to revise and amend the constitution of the Commonwealth of Massachusetts, Boston, 1853.

MICHIGAN.

Documents, accompanying the "*Journal of the Senate*" of the State of Michigan, at the annual session of 1845, no. 15.

Journals, of the Senate and House of Michigan, 1840 to 1850.

MINNESOTA.

Debates and Proceedings of the Constitutional Convention for the Territory of Minnesota, 1857, [Andrews, T. F.], St. Paul, 1858. This is a record of that portion of the Convention composed of Republican members only.

Debates and Proceedings of the Minnesota Constitutional Convention, 1857, [Smith, F. H.], St. Paul, 1857. This is a record of that portion of the Convention composed of Democratic members only.

NEW HAMPSHIRE.

New Hampshire, *Session Laws*, 1857.

Journals, of the Senate and House of New Hampshire, 1857.

NEW JERSEY.

Cooley, H. S., *A Study of Slavery in New Jersey, Johns Hopkins University Studies*, etc., vol. XIV.

Laws of the State of New Jersey, compiled and published under the authority of the Legislature, by Joseph Bloomfield, Trenton, 1811.

Laws of the State of New Jersey, revised and published under the authority of the Legislature, by William Patterson, Newark, MDCCC.

Laws of the State of New Jersey, revised and published under the authority of the Legislature, Trenton, 1821.

Reports of Cases . . . in the Supreme Court of New Jersey [Coxe, R. S., Reporter], Burlington, 1816.

NEW YORK.

King, C. R., *The Life and Correspondence of Rufus King*, 6 vols., New York, 1900.

Laws of the State of New York, revised and passed at the Thirty-sixth Session of the Legislature [Van Ness, W. P., and Woodworth, J., Revisors], Albany, 1813.

New York, *Session Laws,* 1814.

Reports of the New York Convention of 1821, Albany, 1821.

Debates and Proceedings in the New York State Convention, 1846 [Crowell, S., and Lutton, R.], Albany, 1846.

Shepard, E. M., *Martin Van Buren,* in *American Statesmen Series,* New York, 1897.

Street, A. B., *The Council of Revision of the State of New York; its History, a History of the Courts with which its members were connected; Biographical Sketches of its Members and its Vetoes,* Albany, 1859.

NORTH CAROLINA.

Bassett, J. S., *Slavery and Servitude in the Colony of North Carolina, Johns Hopkins University Studies,* etc., vol. XIV, 169-214.

Bassett, J. S., *Suffrage in North Carolina,* American Historical Association *Report,* 1895, pp. 271-285.

Devereux, T. P., and Battle, W. H., *Reports of Cases . . . in the Supreme Court of North Carolina,* Fayetteville, 1857.

Lodge, D., *The Free Negroes of North Carolina, Atlantic Monthly,* Jan., 1886.

Proceedings and Debates of the Convention of North Carolina, 1835, Raleigh, 1836.

Weeks, S. B., *Anti-Slavery sentiment in the South, Publications of the Southern History Association,* April, 1898.

OHIO.

"Burnet's Letters," Transactions of the Historical and Philosophical Society of Ohio, part second, vol. I, Cincinnati, 1839.

King, Rufus, *Ohio,* in *American Commonwealth Series,* Boston and New York, 1903.

Ohio Supreme Court Reports.

Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Ohio, 1850 to 1851, Columbus, 1851.

OREGON.

Journal of the Constitutional Convention of the State of Oregon, 1857, Salem, 1857.

PENNSYLVANIA.

Adams, H., *The Life of Albert Gallatin,* Philadelphia, 1879.

Adams, H., *The Writings of Albert Gallatin,* 3 vols., Philadelphia, 1879.

Conventions and Constitutions of Pennsylvania, Harrisburg, 1825.

McCall, S. W., *Thaddeus Stevens, American Statesmen Series,* Boston, 1899.

Proceedings and Debates of the Convention of the Commonwealth of Pennsylvania, 1837, 3 vols., Harrisburg, 1837 and 1839.

Watts, F., *Reports of Cases . . . in the Supreme Court of the State of Pennsylvania,* Phil., 1850.

RHODE ISLAND.

Livermore, G., *An Historical Research respecting the opinions of the Founders of the Republic on Negroes as Slaves, as Citizens and as Soldiers, Massachusetts Historical Society Proceedings,* vol. VI, August, 1862, pp. 86 to 247.

Richman, I. B., *Rhode Island,* Boston, 1905.

TENNESSEE.

Caldwell, J. W., *Studies in the Constitutional History of Tennessee,* Cincinnati, 1895.

The Statute Law of the State of Tennessee, revised by J. Haywood and R. L. Cobbs, Knoxville, 1831.

[Goodspeed, W. A., Editor], *History of Tennessee,* Nashville, 1887.

Sanford, E. T., *The Constitutional Convention of Tennessee of 1796,* reprinted from the *Proceedings of the Bar Association of Tennessee for 1896,* Nashville.

A Compilation of the Statutes of Tennessee, by R. L. Caruthers and A. O. P. Nicholson, Nashville, 1836.

VERMONT.

Vermont, *Session Laws,* 1858.

Journals, of the Senate and House of Vermont, 1857 and 1858.

VIRGINIA.

Chandler, J. A. C., *The History of Suffrage in Virginia, Johns Hopkins University Studies,* etc., vol. XIX, nos. 6 and 7.

WISCONSIN.

The Argus and Democrat, Madison, 1857.

Baker, F. E., *Brief History of the Elective Franchise in Wisconsin,* Wisconsin Historical Society, *Proceedings,* 1893, pp. 113-130.

Journals of the Council and House of the Wisconsin territorial legislature, 1843 to 1845.

Gregory, J. C., *Negro Suffrage in Wisconsin, Transactions* of the Wisconsin Academy of Sciences, Arts and Letters, vol. XI, pp. 94–101.

Journal of the Convention to form a Constitution for the State of Wisconsin, 1846, Madison, 1847.

Journal of Wisconsin Senate, 1857.

Journal of Wisconsin Assembly, 1857, with *Appendix.*

Madison Express, October and November, 1846, and March and April, 1847.

The Southern American, August 29, 1849.

The Weekly Wisconsin Patriot, 1857.

Wisconsin Argus, October and November, 1848.

Wisconsin Democrat, October, 1846.

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